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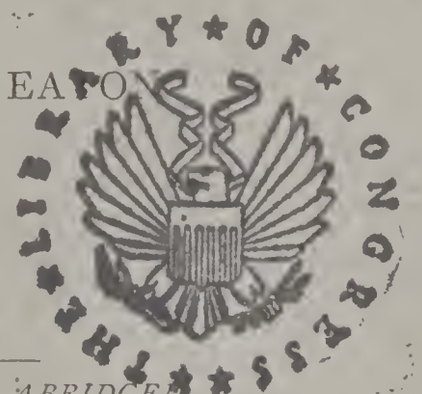
# THE TERM AND TENURE OF OFFICE

BY

DORMAN B. EATON

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# THE TERM AND TENURE OF OFFICE.

UPON no subject within the sphere of civil administration is there a greater contrariety of views or a less instructed public opinion than in regard to the proper term and tenure of office. Popular speech seldom discriminates between term and tenure, and even our statutes hardly escape confusion on the subject, plain as it is that term but marks the length of time for which the office is bestowed and tenure only the condition subject to which, for the prescribed period, it may be held. When the Federal Constitution declares that judges shall "hold their offices during good behaviour" it creates a tenure, but not a term. It is, therefore, no contradiction to affirm of two persons that they hold office by different tenures, yet for equal terms.

The term of the President of the United States and that of the humblest postmaster, nominated by the President, are each for four years; but, so diverse is the tenure that, while only the judgment of the Senate upon an impeachment can sever that of the President, the tenure of the postmaster—frail as the holding of an autumn leaf,—may be severed any moment by the merest caprice of official authority; if not justly or legally, yet under the usage we have tolerated.

The crude and discordant thought and the lamentable prejudices among our people, concerning the proper term and tenure of offices, are what might well have been expected from the utter neglect of the subject in our teaching and literature. What institution of learning has ever given any instruction upon these

subjects? Where have they not—like everything else pertaining to administrative affairs—been treated as unworthy the attention of students and statesmen and fit only to be handed over to the politicians and partisan majorities?

In the early debates upon the Federal Constitution, the question of the proper term and tenure of the President, the members of Congress and the judges were well considered; but little was said, and in the Constitution not a word, about the term and tenure of subordinates. Those matters—like the great power of removal itself—were left to mere inference and construction; nor should we be much surprised. For the more than eighty thousand federal officials, the hundreds of millions of annual revenues, the vast wealth and population and the immense volume of public business and official duties, expanded across a continent, which now give such subjects their perilous importance, were then not only unknown, but they were inconceivable. That power which we find so formidable and those parts of public affairs which now so alarm us, in the eyes of the framers of the Constitution, whom so many new and grave questions made anxious, only concerned a few dozen clerks, and only two millions of revenue. There were then neither parties nor chieftains nor great patronage, to make contentions.

But may we not well be surprised that, in presence of the steady growth of such elements of peril—and especially that during the last forty years, within which personal corruption and partisan despotism have silently accomplished a demoralizing revolution in both the terms and tenures of the great body of federal officials—there should not have been, either in our legislative chambers or in our political literature, a single presentation of the subject upon the basis of principle or policy; nor, indeed, hardly the least instruction concerning it in our academies, colleges or universities? Year after year our graduates have been committed to the sweeping currents of partisan politics, without principles, without matured theories, without books of instruction, or even suggestions drawn either from our own experience or that of foreign nations. Neither in our great works upon constitutional law, nor in those

upon political ethics or science, is the subject thus presented, or in anyway treated as worthy of thoughtful study. Story and Kent, Lieber, Woolsey and Cooley alike—and our college text books as well—leave us without light or guidance on the subject. Indeed, so complete has been the neglect that there is hardly so much as a reference in the index of any standard work under the head of term or tenure of office. What, then, more natural than the discordant practices and theories which have existed? Judges of the Supreme, Circuit and District Courts of the United States, protected by the Federal Constitution, retain their tenure of good behavior; but the federal judges for the Territories, holding under laws framed—the first of them in 1850—in the spirit of the modern spoils system, are given a term of four years and a tenure "at the pleasure" of the appointing power; a provision which I must regard as being as repugnant to that Constitution, which says that Judges of the "Supreme and *inferior Courts* shall hold their offices during good behavior," as it certainly has been disastrous to the independence and character of the territorial courts.

The Judges of some States hold during good behavior, those of others for only a single year, while between such extremes are a motley variety of tenures, and ever varying length of terms; changing not only with nearly every State line, but greatly within the same generation in the same State. New York, for example, in 1846, yielding to a spoils system policy earliest and most developed in that State, changed her judicial tenure from good behavior to a term of eight years, and, under a partial reaction against that policy, has since extended the eight years term to one of fourteen years. From the same causes, Pennsylvania reduced her judicial tenure of good behavior to a term of fourteen years, in 1850; but in 1874, so alarming had the evil effects of a short term become, that the fourteen years' term was extended to twenty-one years. A contrariety, equally striking, is illustrated in most other offices. The terms of school officers, commissioners, mayors, State Senators and Governors, for example, vary in different States and cities from one year to six years, the extension made beyond one year in most cases—as, notably, in Pennsylvania and Missouri,—having been

resorted to as a check upon partisan intrigue and corrupt elections, which short terms had greatly aggravated. The whole official system of late years is without the evidence of accepted principles or matured thought,—as confused and miscellaneous as the surface of the earth, which volcanoes have upheaved and earthquakes have shaken.

For much the same reasons, in nearly if not quite a majority of the States, sessions of the Legislature have been dispensed with for each alternate year. Nowhere, I believe, have official terms been shortened since public attention has been somewhat aroused to the evil of bad administration.

Theories have been as discordant as statutes. On one hand, we see men insisting upon permanency in office as essential to efficiency and reform; on the other, those who denounce stability of tenure and length of term as an aristocratic monopoly. In the name of justice, they demand rotation in office. Some contend that only a fixed term of years can arrest disastrous corruption and partisan despotism; while others insist that such a term would certainly increase both those evils. There are many who, aroused and alarmed as never before at the ruinous aspect of our politics, would directly appeal to Congress to enact a short fixed term of office for all subordinates in the executive department; but there are yet more who would legislate concerning admissions and removals without, at this time at least, fixing any term by law. On one side, intense partisans tell us that parties cannot be sustained without being able to give many places to which a stable term and tenure would be fatal; while on the other, the most candid and thoughtful citizens assure us that parties may trust to sound principles and good administration, repudiating spoils and office mongering by which parties are only debauched and enfeebled. The admirable resolutions of the last Massachusetts Republican State Convention postulate the conditions of reform in the alternative, by declaring "for a tenure of office during good behavior *or* for a reasonable fixed term," allowing removals only for cause; and, therefore, leaving open the main question: "For how long a holding of office should the law provide?"

We shall better see where the truth lies between such extremes, if, in the outset, we get a clear view of the sphere of Civil Service Reform and of the offices directly affected by it.

A great proportion of those who regard patronage and spoils as essential to the life of parties, and short term and rotation in office as essential to patronage and spoils,—and, therefore, oppose all reform which would suppress such essentials,—are doubtless sincere and patriotic; but they are laboring under great misapprehensions. Confusion of thought, or the neglect of thought, is the cause of most of their difficulty. We must, therefore, discriminate with some care, even at the peril of being thought didactic and commonplace.

I Official life,—government itself,—exists under three great divisions, civil, military, and naval. In the two latter, in all the foremost states of the world, patronage,—the bestowing of offices by mere favor—and short, precarious terms and tenure have given place, in later years, to selections under stern tests of capacity and to a system which requires the education and experience which come from study and long terms of service. Those results were reached by slow stages. The commissions of our army and navy offices declare their tenure to be "during the pleasure of the President." Senator Benton says that tenure was based on British precedents and "that it departs from the principle of our republican institutions, which requires a tenure during good behaviour;" a view which contrasts widely with that of some of the party leaders of our day.

In Great Britain and in every other European state, down almost to the birth of men now alive, the tenure of military offices was as precarious and as much a matter of mere favor and patronage as that of civil offices. George III. and his minister Grenville but reflected the spirit of their times, in refusing to recognize any distinction between civil and military officials on the score of tenure or term. Statesmen and generals had held the hope of pillage and plunder to be the most powerful incentives both to enlistments and to efficiency in battle, without the prospect of which no war could be safely undertaken. They reasoned concerning colonels,

captains and soldiers as our politicians reason concerning collectors, postmasters and book-keepers. George III., for example, deprived General Conway and Colonel Barrè—sympathizers in our cause—of their commands for political reasons alone, and extended a remorseless proscription to military and civil subordinates alike.

A spoils system of office, in name and spirit, is only the reproduction in the civil life of this Republic, of the barbarous outgrown feudal war code of the European monarchies. And, but for the stern lessons taught on our battle fields, who will venture to say that official terms would not now be as short, tenure as precarious, and the spoils system as potential in the army and navy as in our civil affairs? Indeed, an act of 1862, not superseded without great effort four years later, did in spirit again take us back to the times of George III., in matters of army and navy patronage. Members of Congress have usurped the appointments to the national schools at West Point and Annapolis, to the great damage of those institutions; and have made their appointments, with the exception of a few competitive examinations conceded to public opinion, a part of their official perquisites, upon a theory which that King and his Minister would heartily approve. All the lessons of the past, reinforced by the fine conduct and high educational influence of the graduates of these schools, are none too strong for withstanding the demagogical, communistic demand for short terms and rotation in office in the army and navy, which the partisans and the spoilsman will forever seek to add to the vast plunder for which they wage the war of politics. Does any thoughtful man believe that if we continue to surrender civil appointments to mere favor and influence, we shall long be able to confer naval and military appointments for merit? It is an interesting fact that in Great Britain, a stable tenure and the giving of office for merit were provided for in the Civil Service earlier than in the Military Service. Our military and naval, like our higher civil officers, may be removed at the mere pleasure of the President and Senate.

Turning next to civil administration, it stands before us under three great divisions: Legislative, Judicial and Executive. Within

State jurisdiction in towns, villages and districts, these divisions are but imperfectly developed. Officials there may have duties not confined to one of these divisions. There, neither Civil Service reform nor the principles which should control the terms or tenure we are considering, have more than a limited and indirect application. Yet, while we are directly dealing only with federal officials, the same reasoning applicable to them is largely applicable to the official life of the States and municipalities.

The debates on the Constitution and the *Federalist* plainly show—what perhaps is obvious enough in itself—that the stable and independent tenure (of the federal judges, and the provision against diminishing their compensation), rather than a short, fixed term, were provided for the double reason, (1) that judicial duties are in objects and methods the same, and the judicial authority should be exerted in the same spirit and manner, at all times and under all circumstances; and (2) that such offices are in no sense representative either of interests or opinions, or of times, classes or sections.

The Constitution makes no provision bearing upon the terms or tenure of clerks, marshalls or other subordinates of the Courts, or of those serving elsewhere in the judicial department, except what is involved in the declaration that "Congress may by law invest the appointment of inferior officers in the President alone, the courts of law, or in the heads of departments." But it needs no argument to make it plain that every reason in favor of stability in the tenure of a judge, applies with undiminished force to all those who aid him in the performance of his duties, or are required to serve anywhere in the judicial department.

The early statesmen unquestionably believed that the great principles of judicial independence which they had so plainly formulated would be applied to every minor official in that department. In most of the federal courts, that expectation has been realized. The federal judges have been given the power to appoint and remove their subordinates. They have been allowed a stable tenure more generally than the subordinates of either other department. And who will deny that the federal judiciary has better kept within its sphere, has fulfilled its great purpose more

completely, has withstood the spoils system more effectually, and has consequently preserved itself more absolutely unstained, and added more to the strength and glory of the nation than either of the two other great departments? To this noble record, the history of the territorial judges and their subordinates, and of marshalls and the district attorneys, presents a painful contrast. Made dependent upon party politics, by a term of office in violation of the spirit, if not, as to the judges, in violation of the letter of the Constitution, they have been forced to yield to mere personal and political influences. But I have no space for the subject.

How great and lamentable has been the departure from the principles of that Constitution, in the judicial administration of the States, is known to all. The corrupt influences which enabled Jackson and Van Buren to set up the spoils system at Washington and to seek popularity by proclaiming the seductive doctrine of rotation in office as a principle of justice, had long been demoralizing the politics of the States, and, worst of all, the politics of New York where that system originated.

As early as 1808, Van Buren bartered his services to Tompkins for a judicial office. In the great contest between himself and Clinton, for the first time in our history the bench was dragged into the defiling pool of politics, and judges became reckless partisans. Judicial appointments thus made venal, respect for the judiciary thus impaired, and a voracious, insatiable appetite for office thus stimulated, a rapid revolution was accomplished in our State judiciaries. Before 1830, no State judge had ever gained his office by popular vote. Now the people of twenty-four states—equal to the whole number then in the Union—elect their judges for fixed terms and by popular vote. If in later years the first short terms have been lengthened at every opportunity for constitutional amendment, it has been by reason of the disgust and alarm caused by making judicial offices a part of the spoils for which parties contend. The average length of judicial terms now reached in the States is about ten years, and the demand for a more independent tenure is rapidly growing more potential where short terms exist.

The same influence which forced the judges into politics, and made their tenure precarious, was not less disastrous among judicial subordinates. In New York, especially,—but in every State in proportion to the despotism and corruption of its politics—the true interests of the people have been spurned, and neither term nor tenure has been allowed which could interfere with the will of the chieftains or the interests of partisans. Salaries have been made high that they might be assessed to fill the party treasury. Terms have been made short that managers might have more profitable elections to conduct, that chieftains might have more offices for bribes, that their vassal lawyers might have more chances to get upon the bench. Tenure in subordinates was measured by servility. A new and demoralizing element was added to the excessive and feverish activity of municipal politics. Election bullies were made court officers, that they might be at hand when ordered to do the dirty work of politics. Character fit to serve in the temples of justice, and capacity and experience competent for the litigation of the people, were alike sacrificed to a scandalous demoralizing practice under which every place in the courts was apportioned, as if prizes of war, among the victors in the fights of faction. For years, the subordinate places in the Courts of New York have, as a rule, been so apportioned among the faction generals who led the voters at the judicial elections. When Judge Barnard, on his trial under impeachment, answered on the subject in these words: "This is my Court; I have won this office, this patronage is mine," he explained the whole system, which is yet only checked. Of all the sad consequences, perhaps the most lamentable have been the loss of popular respect for the courts, of a lofty ideal of what they ought to be. Can any man point to a single benefit which has come to litigants, to parties even, from this revolutionary departure from the principles of the Constitution and the fundamental conditions of justice?

II. Turning next to the legislative department, we find decisive reasons why the terms of those elected to represent the people should not be long. These officers represent interests, opinions and policies, which are constantly changing; and, at every phase, they

have an equal claim to be represented in debate, and to be expressed in statutes. Permanency of tenure on the part of legislators would obviously defeat one of the great ends of representative government. Stability in office is inconsistent with absolute representation. Yet, so manifest have been the advantages of that wisdom and facility which come from experience in legislation, and so deep the sense of peril from incompetent legislators, that a great portion of these officers,—notably Senators, both State and Federal,—have been allowed to hold their places for terms during which great changes of interests and opinions have taken place. So strong has public opinion been in this direction of late that, in the States, the terms of Senators, Mayors, and school officers, and of various other officials, have been much extended within the last few years—perhaps nearly doubled since the reaction against the spoils system theory of rotation first began. Biennial sessions of the Legislature are due to this cause.

Despite these changes, the vast volumes of crude statutes,—more than a thousand pages a year in a single state,—causing distracting doubts and needless litigation in the courts, by which justice is made remote and uncertain, proclaim the incompetency of lawmakers. It will be in vain that a remedy will be sought in limiting legislative power by constitutional amendments. As the statutes become more intricate and life more complicated with our growing wealth and population, we shall more and more feel the need of larger experience and longer official terms—to be held under a sterner responsibility—for the supreme work of legislation.

But, in the legislative department, there are inferior officers not elected by the people,—the clerks and other subordinates of Congress, State Legislators and municipal councils,—who are in no sense representative, but simply ministerial. Next to character and natural capacity, the highest qualification for these places is experience—invaluable experience—in the discharge of their duties. These duties have no honest relation to party politics, or to majorities in legislatures, but are the same at all times and under whatever dominant party. Our Constitution,—like that of Great Britain,—confers the power of their selection and removal

upon the legislative chambers without restriction as to term or tenure. Who will deny that economy, efficiency, purity and dignity in legislation alike demand that these officials should hold their places so long as they fitly perform their duties, and that they should be made to feel it to be a disgrace to allow that performance to be influenced by partisan considerations?

Before the British spoils-system was suppressed by the reforms made within this generation, there had been as demoralizing contests in the British Parliament over the appointment and removal of such subordinates, as have ever disgraced our Congress or State Legislatures. Now, holding during good behavior and efficiency, the selection of these officials in Great Britain is by methods which no party controls, and the discharge of their functions is treated as having no political significance. Parliament has now more time for its great work, and its dignity is no longer dishonored by ignominious contests about clerkships and doorkeepers. I have no space for presenting the evils which have come to us from treating these offices as the mere spoils of legislative majorities and partisan chieftains. Demoralizing intrigues, corrupt bargains, acrimonious debates, disgraceful scenes in the halls of legislation, law makers discredited in the eyes of the people, years of time required for improving the laws worse than wasted, incompetence, and disastrious mistakes on the part of the partisan officials selected—all these darken the record of our legislation and bring discredit upon republican institutions. In Congress, of late, we have seen one party, in order to obtain offices for its henchmen and favorites, drive from their places worthy and experienced clerks, who had been made cripples for life on the battle field of their country; and the other, disregarding the needs of the public service, seeking to force into office such new officials as would most influence the local politics of a State. Nor was this the worst; the country has been pained at the spectacle of a great part of a session of the national Senate given to an acrimonious, demoralizing contest,—sinking at last through the dark hours of the night into something like a test of physical endurance—over the appointment of its secretary, in which the merits of the candidate—the only legitimate

issue—was forgotten in the angry storm of partisan and irrelevant contention. Yet we would not count all this as utter loss—any more than we do the suffering and death of our late noble President—if only it has made us feel more deeply the peril of further departing from the spirit of the fathers and the theory of the Constitution,—if only it has awakened in us and those who represent us a higher sense of what is becoming in the most conspicuous place of statesmanship.

One other reflection upon the legislative department is important. It is by its members, elected by the people, that all laws are enacted, all appropriations are made, all salaries are fixed, and all ordinances and regulations are authorized, subject to which every department of the Government is carried on and every official duty is discharged. It is in this department that the great repressing, stimulating and moulding forces of a nation, which utter its will, express its character, give direction to its power and policies—on which all liberty, justice and safety depend—find their ultimate sanction and strength. Government, under liberal institutions, in its comprehensive potential sense, is carried on in the legislative department. The judiciary but declares what the legislature has said or sanctioned. The Executive but executes what the legislature has authorized, or the people consistently therewith have approved at elections. It is only demagogues seeking popularity, partisan officials seeking influence and spoils, and thoughtless people blinded by false theories, who regard government as getting office, holding office, and bartering office for votes.

If from the more exalted we turn to the humbler sphere of government, we find it in villages, towns and districts, where the people directly select and instruct and supervise their public servants, whose duties are not merely legislative, but combine, in some measure, the functions of the three great departments of government.

No thoughtful, candid man can affirm that, so long as the people can elect, instruct and call to account every official, from the town selectman and the village trustee to Governors, Congressmen and Presidents, and change every method and official through which

government acts, there can be any interference with the prerogatives of the people or any danger to their liberty by insisting that executive subordinates and the ministerial clerks and servants in the other departments shall be selected for their merits and retained so long as they are most serviceable to the public.

Who, but officers of the legislative department, have authority to reduce salaries, to dismiss supernumeraries, to provide for and enforce economy, to prevent offices being given as bribes, to make official responsibility more severe by stern investigations and penal laws, to expose all kinds of abuses in public debates in whatever department they exist? Whose fault will it be, but that of legislative officers, if these powers shall not be vigorously exercised?

Let us here clearly see the need of making it plain to the people that competitive examinations and the other practical methods of Civil Service Reform do not interfere between the people and the officers they elect—do not touch upon legislative discretion—do not in the least limit or obstruct the capacity and duty of representatives to be true to the interests, opinions and policies which they are bound to respect. The citizen must forever remain the sole judge of the fitness of the candidate for whom he can vote.

Competitive examinations and the other methods of Civil Service Reform, so essential in the cases of the tens of thousands of executive and ministerial subordinates in the great offices and departments, who now gain their places secretly through favor and influence—as to which the people have neither part nor information—can never be necessary or useful for the selection of the officials of towns and villages. Everything is there so open, and all official duties are so simple, that the boys on their way to school, and the women over their wash-tubs, may discuss them intelligently. And for the very reason that these official functions are so simple that any one may readily discharge them, and that they rarely require the abandonment of the accustomed business of the local officer, it is practicable and desirable that his term of office should be short. In a limited way, the doctrine of rotation may be here accepted, and it has the advantage of causing more persons to acquire valuable information concerning public affairs.

It is a part of the art of the demagogue to plausibly represent that methods and tenure, essential only in the great offices, are intended for interference between the people and these town and village officials at their own doors. It is an utterly false representation.

In leaving the legislative department for the executive, there is another view of its official life, important to be carried with us. The most perfect representation—which in theory is sought—would be attained by the shortest possible terms of office. Terms of six years for federal senators, two, three and four years for State Senators, of two and three years for Governors, mayors and various other officers, as is now the case, cannot be justified on the mere theory of representation. That theory is based on the right of the people *at all times* to have their interests and opinions reflected in the halls of legislation. Now, terms of only one year—the shortest we recognize—violate that theory. For the opinions of parties and individuals do not, like grass and fruits, grow and ripen, or, like the earth, complete a revolution once a year, but often more frequently. When Rhode Island, following the example of the Grecian Republics, fixed the terms of her representatives at six months, and Connecticut added to those short terms semi-annual sessions of her Legislature, each at a different place, for the more convenient and exact representation of the people, and when the factious spoils system spirit of Florence and other medieval republics of Italy reduced official terms first to six, then to four, and finally to two months, they obviously enforced a term tending to a more exact representation than any now provided for in this country.

Our longer terms for such offices are justifiable only on the assumption which they proclaim, that the experience *secured by larger public service is more valuable than any ideal exactness in representation;* an important truth as bearing upon the proper term of mere ministerial and executive subordinates, and one which Senators will do well, if they do not longer forget, when they stand up in their places, in the fifth and sixth year of their terms—perhaps long after the majority in the State and Legislature which they pretend to represent has been changed since their

election—and, in the name of justice and sound policy, demand rotation, removals and short terms on the part of those subordinates who represent nothing but the unchanging need of having the constant volume of public work well done, and done in the same way year after year, whichever party is in power, and whatever policy prevails.

I say well not longer to forget that fact, because, if we go much further in teaching the people the communistic doctrine that every man has an equal right to office and that every officer belonging to the defeated party should go out when the other party prevails, the plausible and insatiable demand for office, sure to be aroused, will not stop at subordinates, but will cut down the terms of Governors, Senators and Judges as well. That doctrine bears the seeds of a communistic revolution in official life.

III. And now for the executive department. To approve and disapprove legislative enactments, are the highest functions of Governors and Presidents. To that extent they are both legislative and representative officers. Next in importance is the duty of those officers to carry into action, in the conduct of executive affairs, the principles and policy which the people approved in their elections. This, too, is in a sense a representative function. Much the same reasons, therefore, which require the terms of a legislative officer to be short apply also to Presidents and Governors; in a limited degree they apply to Mayors, also. In limiting the term of the President to four years our Constitution presents decisive evidence that considerations drawn from his representative rather than from his strictly executive functions prevailed—must we not say unwisely and disastrously prevailed—to the extent that it made his term shorter than that of a Senator.

The Constitution has fixed the term of no officer in the executive department except that of the President and Vice-President. It created no department; yet says "the President may require the opinion in writing of the principal officer in each of the Executive Departments upon any subject relating to the duties of their respective offices." Upon this narrow basis and the precedents of the British Cabinet, our Cabinet has been reared; and while each

of them are equally unrecognized in the Constitution and laws, (and with us the duty and responsibility are upon the President alone,) the Cabinet has been, in practice, in both countries the great central council for advice in regard to all executive action.

It is too clear for argument that the heads of departments, who are to advise him as to his gravest duties, need to have faith in the principles and policy the President is bound to enforce, and for that reason their tenure of office should depend upon him.

There may also be a few other executive officers—foreign ministers, or more clearly those sent on special missions, and Governors of Territories might be examples—whose peculiar fitness, if not success, would depend upon their sharing the views of the Administration; and in all such cases there should be short terms or a tenure in the discretion of the President.

When we go below these, we come upon officers who, not only according to the theory of the Constitution and the laws, but from the very necessities of government, are required to obey the legal instructions from those above them to whom they are directly responsible. Each head of a department is clothed by law with the authority and duty of directing the official action, subject to the constitutional power of the President, of all the subordinates of that department. Among all the eighty or more thousands of subordinates standing in graded ranks from the department secretaries down past great collectors and postmasters to the custom-house janitors, the light-house keepers, the postmistresses in the hamlets, the keepers of signal stations on the tops of mountains and of life-saving stations on the shores of the oceans and the lakes, there is not one who, according to the laws or sound policy, has any right of advice as to the policy or principles of an administration; not one for whom obedience to legal instructions from a superior is not a plain duty; not one whose political opinions are material for good administration; hardly one whose active participation in partisan politics is not a public detriment tending to neglect of public business and the oppression of the citizen. The duties of these officers, I repeat, are in no sense representative. They are not called upon to act upon any political theory. They perform no

duties that depend upon the triumph of political opinions or the success of any party. Whichever party comes into power, whatever party they belong to, their duties are the same. They have no right to regard the opinions of any citizen in their official action, or need to know them. They do not, like legislators, or town and village officials, meet at stated seasons, or convenient times, to consider changing interests and fluctuating politics, but month after month and year after year, they do, or they should, steadily devote themselves to the same branch of that vast unchanging public business, which, from the smaller officers to the greater, moves on like streams and rivers in an unbroken succession and everlasting continuity. Indefensible as political indifference is in the citizen, we may unhesitatingly affirm that, so far as the mere discharge of official duties are concerned, these 80,000 officials would not be less useful public servants if they had neither opinions about politics nor share in party affairs? We may not, as was found necessary in England for a hundred years, disfranchise them, but we should clearly see and make them see, and make them *feel* also, that they not only need not, but should not, as officials, interfere with party politics or regard political opinions as qualification for ministerial duties.

Before considering what should be the term and tenure of this vast body of federal officials—referred to in the National Constitution as "inferior officers," and to which a much larger number of State and municipal officials holding like relations should be added—it will be well to notice some objections which stand in the way of considering the question of term and tenure upon its own merits. It is declared that any term and tenure which prevents inferior officers being removed and their successors appointed at the pleasure of the majority, disastrously restricts the freedom of action on the part of the great parties, and deprives them and the people of essential representation in the official life of the country; and further, that the establishment of competitive examinations, as the Civil Service Reformers propose, is an equally unjustifiable restriction.

The answer is not difficult. Under our institutions parties are inevitable and salutary. Their great functions are to arouse, embody, sustain and carry forward a sound public opinion until it finds fit expression in statutes and executive action.

Under these institutions, the federal and State legislators and all who govern in municipalities and towns, are selected by the vote of the majority, which majority in itself but expresses the will of the dominant party. In the selection of Mayors, Governors, and Presidents, that party majority is equally potential. These two classes of officers, the one wielding all legislative authority, and the other all executive authority, in their united action exert all the power which our institutions give, or a free people can safely confer, for the representation and enforcement of their will. All of these officers may be, and in our practice they generally are—within their respective spheres—the trusted favorites of the dominant party, bound in the double allegiance of gratitude and dependence.

Through these two classes of officers, the adherents of the dominant party practically make and repeal all laws and ordinances, direct their enforcement, fill every subordinate place, instruct and require obedience from all who hold them, enforce all principles and guide all policy in obedience to which the vast affairs of the nation, from the lighthouses and the signal stations to foreign embassies and the great departments are conducted. Is not this enough? Have we ever suffered because parties have needed opportunities or influence greater than these? Is not here a sphere broad and grand enough—a power and opportunity dazzling enough—to inspire the patriotism and reward the zeal of any party and of the noblest man who ever led any party in a great nation?

Let it not be said that competitive examinations or *doctrinaire* Civil Service rules block the way. For, I repeat, they in no way interfere with the elections or proper official action of any of these party-elected law makers or executive leaders, federal, State or municipal.

These examinations and rules stand in the way only when parties and their leaders—fearing to rest their fate with the people

upon any sound principles they have sustained, any good administration they have enforced, any worthy persons they have put in office, or any wise laws they have enacted—attempt to perpetuate their power by filling the inferior offices with partisan henchmen potential at elections, by pledging and bartering appointments for votes, by converting the civil servants of the people into their oppressors, by levying exactions upon these servants for executing the coercive policy of chieftains and factions, for whom the people refuse to contribute.

Unless, therefore, it is claimed that a party, which cannot gain or retain power by adhering to the spirit of the Constitution and to common honesty and justice, may strengthen itself by using public authority to debauch and coerce the people—unless it can be shown that the term and tenure of these "inferior offices" should, in the interest of parties, be made brief and precarious so that patronage and the appointing power may be conveniently prostituted as merchandise in the shambles of partisan politics—we may confidently declare that their term and tenure alike should be determined quite irrespective of mere party considerations.

But let us not imagine, because these inferior officers are not representative or given large discretionary powers, that their term, tenure or relations are not vital and perilous. A glance at the evidence to the contrary will dispel all doubts as well as shed some light on the true relations between term and tenure and the approved methods of Civil Service Reform. It was the political assessment of the 80,000 officials which President Grant prohibited by executive order, which President Hayes declared to be "gross injustice to the officers" or "indirect robbery of the public treasury," which President Garfield denounced as "shameful" and "the source of an electioneering fund which in many cases never gets beyond the pockets of the shysters * * and mere camp followers of the party." It was these assessments in vast aggregates of hundreds of thousands of dollars, levied on the more than 2,500 federal officials, and the two and a half millions of their salaries at New York City, helped by like extortions from the $12,000,000 salaries of State and municipal officers at that city—their pre-

carious, humiliating tenure degrading many of them into mere partisan vassals—which made possible the unparalleled corruption and despotism of New York politics, and led directly to the rebellious madness of her Senators in confronting the President and deserting their posts of duty for a faction war of treason at home. It is by reason of the crowding and bullying for these offices—invited and intensified by the frail tenure of those who fill them—that our late lamented President declared deliberately, in the *Atlantic Monthly* in 1877, "that *one third of the working hours* of Senators and Representatives is hardly sufficient to meet the demands in reference to appointments for office." He further declared his belief that with a "judicious system of Civil Service, the business of the departments could be better done at almost one half the present cost." It was the applications for these offices which the New York *Tribune* lately declared had occupied one-third the time of President Garfield; which one of his secretaries has stated had occupied more than one-half of his own time; which another declared had been the subject of seven hundred and ten out of less than seven hundred hundred and fifty calls upon him during the first three months of his official service. It has been the expected facility of breaking the fragile tenure of these offices, which has drawn unprecedented numbers of office-seeking men and women to Washington within the past few months—the office-soliciting advertisements of impecunious women in a strange city, separated from their families, now being openly published in the newspapers of the national capital, *in which, in their need and desperation, they promise one-fifth of their salaries, and to back their claims with the influence of members of Congress*, as a condition of getting one of those offices. It was the general effect of the intrigue, solicitation and coercion for these offices without stable tenure which Senator PENDLETON, of one party, in a late speech declared to be "the prolific parent of fraud, corruption and brutality. . . . It made Guiteau possible. . . . It has debauched the public morals. . . . It drives Senators and Representatives into the neglect of their chief duty of legislation . . . and too often makes the support of an administration conditioned upon their obtaining offi-

ces for their friends;" and of the same abuse that Senator DAWES, of the other party, in his late letters said, "It destroys his (the Congressman's) independence, and makes him a slave."

It needs no argument to make clear the intimate relations which exist between such abuses and the term and tenure of these "inferior offices."

These are the decisive questions: What, intrinsically considered, are the proper terms and tenure of these officers? In what way should such term and tenure be modified by reason of these abuses? What is the relation between such term and tenure and competitive examinations and the other practical methods of a true Civil Service Reform?

We have only to consider the great variety of officials to see that to most of the general rules we may lay down there must be some exceptions. The officers classed in the State department range from the Secretary and the Ambassadors to the Consular clerks and the dispatch agents. The department of the Treasury has at Washington about 3,000 subordinates; to which, the one hundred and eight Collectors, the Surveyors, the Naval officers, the officers of the Mints, and all their subordinates, the vast Internal Revenue service collecting nearly one-half the national income, the Light house, the Life saving, the Hospital, the Revenue Marine services, and many more isolated officials must be added. In the Department of the Interior, there are the Pension and Patent Office service, the Land office, the Indian service, the Bureaus of Education and Agriculture, and various other officers. The War and Navy Departments have civil subordinates of many grades widely separated. More than 42,000 postmasters with their subordinates, upwards of 1,100 serving at the New York City office alone, and the many others with the most varied duties, of which the railroad and steamboat mail service, and the vast mail contract system are examples, are under the Postmaster General. The Department of Justice, with its District Attorneys, Marshals and election supervisors and their subordinates; the National Board of Health, the officers of the District of Columbia and of the Territories are also to be added, before we get a general view of the vast number and

variety of the officials under the Executive. Every year they are becoming more numerous, their duties more complicated, and the need of fixed rules, which shall exclude favoritism and pressure, more imperative.

The authority to appoint these officers, subject to confirmation by the Senate, is given by the Constitution to the President, with the power, as we have seen, in Congress to vest the appointment of inferior officers in heads of departments. Beyond declaring that all civil officers shall be removed on impeachment and conviction of treason, bribery and other high crimes and misdemeanors, the Constitution leaves the stupendous power of removal to mere implication. It has, however, been authoritively decided and the constant practice has been (save as qualified of late by the Tenure of Office Acts), that the power of removal belongs to the President, as an incident to the power of appointment. The Constitution provides *no term*, and, otherwise than by implication, no tenure for any one of these inferior officers. And prior to a law of 1820, to which further reference will be made, no term or tenure was provided by law for any of these inferior officers. The tenure of usage had been that of efficiency and good behavior. The few scores of officers and the small amount of revenue—only $2,000,000 in the first year under the Constitution, as against more than $360,000,000 last year—apparently gave no great importance to such matters at the beginning. Even at the end of Jefferson's first term, the whole revenue of the Government was hardly greater than the increase of last year over the previous year, both from customs and internal revenue, each of the three amounts being about $12,000,000. Yet in the co-existence of a power of removal without legal restrictions and a tenure of office undefined by law, there was the promise and potency of all the mischief and peril of our day.

And such was felt to be the fact by our early statesmen; for, in 1789, in the first Congress, the right of removal and the tenure of these officials, as matters of the highest importance, were thoroughly discussed. Mr. Madison laid down these principles—generally accepted by his contemporaries and uniformly enforced in

the national admistration, until the triumph of the spoils system barbarism under Jackson and Van Buren, or, at least, until the four years' term statute of 1820--: (1) That the power and the duty of making removals were equally vested in the President alone, with an authority on the part of the House of Representatives to impeach him if he should either allow an unworthy officer to continue in his place, or wantonly remove a meritorious officer; Madison distinctly declaring such a removal to be an act of "maladministration;" (2) Fidelity and efficiency were the measure of tenure, as character and capacity were the tests for appointments. There was no fixed term, and apparently no need of any. Washington made only nine removals, and all for cause; John Adams, only nine, and none, it would seem, by reason of political opinion; Jefferson, only thirty-nine, and none of them, as he declared, for political reasons; Madison only five; Monroe only nine; J. Q. Adams only two, and all for cause. Defalcations were not wholly unknown, and there was inefficiency in some offices. But, compared with what speedily followed the administration of the forty years covered by these Presidents, it was purity and efficiency itself. In no country of the world, in those years, were public servants so respectable or administration so untainted. No other government had then reached so high a plane of disinterestedness, or exhibited so much regard for character and justice in dealing with those who served it.

It was left for the politicians of later days to discover and to teach that to select public servants for their merits and to retain them because they continued meritorious, are "un-American." Let us glance at the cause and progress of this great change as bearing upon terms and tenure of office. Some facts have been stated which illustrate the early pre-eminence of New York for the despotism and corruption of her politics. Burr had early laid the foundations of her spoils system and, with the aid of Van Buren, his most apt and distinguished disciple, that system had been made potential in New York, several years previous to 1820. It required short terms, and partisan tests for office. It made political opinions a ground of appointments and removals and

required servile obedience to chieftains on the part of all officials. Before 1820, Governor Clinton complained, in a message, "of an organized and disciplined corps of federal officials interfering in State elections." Tammany Hall was becoming a political power. Van Buren was pressing at Washington for partisan appointments. New York politics had become so notoriously desperate and unscrupulous, at that period, as to attract almost as much attention as they do at this day. Jackson contriving how to reach the Presidential chair, and affecting the character of a non-partisan, said to a New Yorker: "I am no politician, but if I were a politician, I would be a New York politician." Van Buren soon made him one.

The spoils system spirit, thus early reduced to practice in New York, was being slowly developed in other parts of the Union. Those elements of intrigue and corruption which, little more than a decade later, asserted a dominant power for that system, were not an instant creation, but a slow and largely a secret growth. That growth was facilitated by the utter neglect of all study and teaching of the science of administration. The future champions of the system had already reached manhood. Within eleven years several of them were to be in the Senate. The creed of the spoilsmen had not been avowed, but the men who were first to proclaim it were leading politicians before 1820.

In that year, William H. Crawford, Secretary of the Treasury, was a Presidential candidate, and Van Buren, who was to come into the Senate in 1821, even then an aspirant for the Presidency, was Crawford's supporter. They were unsurpassed for their skilful use of patronage. Both were able to see that if the terms of the inferior officers were reduced to four years, there would be more patronage to dispose of and an easier introduction of the New York system.

On the 20th of April, 1820, about thirty days before Congress adjourned, there was reported a bill (which Mr. Crawford and Mr. Van Buren approved) which reduced the constitutional tenure of district-attorneys, collectors, naval officers, navy agents, surveyors of customs, paymasters, and of several other less important officers, to a term of four years. This was the first fixed term for

any such office. It further declared that the holding of all such officers, whose commissions were dated September 30th, 1814, should expire on the day and month of their date next after September 30th, 1820. The expiration of other holdings was fixed for a year later. The bill was thus *retro-active, and it made these terms expire on the eve of the Presidential election.* There was to be a Presidential election in 1824, when Crawford and Jackson were to be leading candidates. How largely and promptly this change would add to the patronage of the Treasury, where Mr. Crawford presided, need not be pointed out.

But these were hardly the most ominous provisions of the bill; for, taking the side of the partisan spoilsmen, against the approved doctrines of Madison and the practice of every President, it declared that those officers "shall be removable at pleasure." Here was rotation legalized for the sake of rotation. Here was the first demand of surrender ever made upon the General Government in the spirit of the New York spoils system. Here was practically a revolution in the term and tenure of office; an emphatic degradation of the standard according to which the fate of every one of these officers was to be determined. In silence, almost stealthily, this act—working a revolution in our official system—was carried through both Houses; a proceeding perhaps impossible but for the fact that, for the first time since Washington's first term, there was no effective division into parties, but only into factions.

The avowed reason, or rather the apology for the new policy, was to the effect that it would furnish the means of removing unworthy officials; the speciousness of which appears in the fact that the terms of all in office—worthy and unworthy alike—were, without inquiry, severed absolutely. Nothing but official pleasure was to protect the most meritorious in the future.

The significant facts were that there was no *showing of delinquencies; no charges that the President could not or would not remove unworthy officials; not a word of debate; not a record of votes on this revolutionary and disastrous bill!* But there were statesmen who foresaw the disastrous consequences. When Mr. Calhoun,

who was Secretary of War, heard of the sudden passage of the bill —it would seem that he did not know of its pendency until it had passed both Houses—he declared it "one of the most dangerous ever passed, and that it would work a revolution."

The dangerous consequences of the new policy began very soon to appear. Five years after the passage of the Act of 1820, an able committee of the Senate, with Mr. Macon at the head—who never aided a relative or henchman to an office—made an earnest report for the repeal of the Act. But the spoils system had secretly made progress. The practical effect of the new law was not largely understood by the people, and the movement failed. Mr. Crawford having become infirm, Mr. VanBuren transferred his support to Jackson, and that system, which this Act would greatly strengthen, was made ready to be set up at Washington. Mr. Benton says the law of 1820 "had become the means of getting rid of faithful officers, and the expiration of the four years' term came to be considered as the vacation of all officers on whom it fell." Vain, indeed, was it to attempt to repeal a law which had already become a bulwark of the new system in the spirit of which Jackson, the military hero of the day, and VanBuren, the chieftain of New York, and the greatest party manipulator of his time, were working together for the Presidency.

The people did not yet comprehend the strength or the ultimate purpose of that law, nor had its friends ventured to avow its political motive. Jackson had been writing letters to President Monroe—and to Kremer as late as 1824, only five years before he was elected President—deprecating party tests for office. But the Act emboldened the spirit which gave it birth. Van Buren was showing what use could be made of it by party leaders. Jackson's partisan removals of twenty times more officials than all who had been removed for any cause since the foundation of the Government, clearly interpreted that spirit. Thirsting for more vacancies to fill, he recommended in his first message "a general extension of the law which limits appointments to four years;" a short term policy so radical and dangerous that even his followers shrank from it; yet by some strange perversion it is now finding support on the part

of a few well-meaning persons who urge it in the name of Civil Service Reform! That message further declared "rotation a leading principle in the Republican creed." Ignoring the true rule that every man's claim upon office is in proportion to his fitness to fill it, the same message proclaimed the communistic doctrine that *every man had an equal right to office;* which, by his appointments, was interpreted to mean, in practice, that no man but a partisan, servile to himself, had any such right which a president was bound to respect. Three years later, in 1832, Senator Marcy, in the Senate of the United States, explained the new four-years-term spoils system —thus supplied by his State to the Union—in these memorable words: "When they, (New York politicians) are contending for victory, they avow the intention of enjoying the fruits of it. If they are defeated they expect to retire from office. If they are successful, they claim, as matter of right, the advantages of success. *They see nothing wrong in the rule that to the victor belongs the spoils of the enemy.*" The new system was therefore simply this: no tenure for more than four years; office and salaries the spoils of party warfare; removals at pleasure; rotation in order to give offices to as many servile partisans as possible; appointments and removals for political reasons; the duty of the official to be an obedient worker for his party and a servile vassal of its managers. Political assessments were of later growth. Such were the origin and spirit of the spoils system as it stands connected with the term and tenure of office.

## II.

The close of our first article presented the four years' term theory in practice as a part of the "spoils system," being enforced by Jackson and Van Buren in 1835.

The disastrous consequences were rapidly disclosed, especially in New York, where the system was earliest and most completely put in practice. First Swartwout's and then Hoyt's enormous defalcations as collectors at the New York custom-house; Price's defalcation, there, as District-Attorney; disgraceful abuses in the New York post-office; wholesale removals, intrigue, corruption, bribery and inefficiency on the part of subordinates at that city and elsewhere, more reckless than had ever been before known, and in amount far greater under Jackson's Administration alone than under all the others before him. Such is the emphatic evidence. The four years' term law of 1820, for which the only apology was the pretended need of bringing inferior officers to a more frequent and strict account before the people, *was followed by two hundred and ninety-seven defaulting collectors, receivers, etc., reported by the Secretary of the Treasury to the House on March 30th, 1838*,—a number greater, it is believed, than all such defaults since the Government was established! But it had not required that demonstration to alarm the thoughtful minds of the country.

As a consequence, the attempt made in the Senate in 1825 to repeal the provisions of the law of 1820 was renewed in that body in 1835. Despite the weight of Jackson's Administration against it, the repealing act passed the Senate in 1835 by a vote of thirty-one to sixteen, every distinguished name in the Senate—Benton, Webster, Clay, Calhoun, Ewing, Southard and White,—among them, except Buchanan of Pennsylvania and Wright of New York,—those States then, as now, being pre-eminently the "machine," "spoils system" States,—who voted against it. The Senate had not at that time come very much under the vicious influence of patronage or the feudal code called "the courtesy," which have in later years been so disastrously potential in that body. There had been no postmasters to confirm before 1836, and few other officers.

The Senate had not, by a tenure of office act, substantially usurped the executive power of removal.

A few extracts from the great debate of 1835 upon the repealing bill deserve a place here. The spirit which secretly dictated the Act of 1820 spoke out plainly against its repeal. Shepley of Maine made this avowal: "I will say plainly that I hold to rotation in office. I would not necessarily require any positive fault in an officeholder in order to remove him from office. . . . . When officers hold under this Government during good behavior, then one of its great features of holding out equal privileges to all will have been destroyed." Here are partisan proscriptions and removals without cause as shamelessly defended as they were ever avowed by Marcy or practiced by Barnard or Tweed.

Hill of New Hampshire, a servile lieutenant of Jackson, declared that a "salutary system of rotation in office should be adopted throughout." Wright of New York, like Marcy, true to the "spoils system" of his State, declared that the law of 1820 "was calculated to secure the cardinal republican principle of rotation in office, . . . so that those who had a reasonable share of office 'might give place to others.'" What more could a Republican chieftain of the present day, or a Tammany Hall "boss," desire? Perhaps he was not in favor of a four years' tenure for United States Senators and Judges, plainly as his doctrine required it; but, only eleven years later, that theory put in practice, as we have seen, reduced the good behavior tenure of New York Judges to eight years, and made Barnard, Cardoza, McCunn, with judicial scandals without number, possible. Mr. Webster declared that the evil effects of the Act of 1820 had vastly predominated; that "a very great change has taken place *within a few years* in the practice of the executive government. I am for staying the further contagion of this plague. Men in office have begun to think themselves mere agents and servants of the appointing power."

Mr. White, a supporter of Jackson's Administration, wished it should have the credit of the repeal of that act. He prophetically declared that "under the present state of things society will be-

come demoralized, . . . the business of office-seeking will become a science, . . . office-hunters will come on with one pocket full of bad characters, with which to turn out incumbents, and the other full of good characters, with which to provide for constituents." Mr. Clay said "the tendency had been to revive the Dark Ages of feudalism and to render office a feudatory."

Mr. Calhoun declared that officers and people are being taught "that the most certain road to honor and fortune is servility and flattery. . . . . I have marked its progress in a thousand instances *within the last few years.* . . . . *What a few years since would have shocked and aroused the whole community, is now scarcely perceived or felt;* . . . . and . . . . when it is openly avowed that the public offices are the spoils of the victors, it scarcely produces a sensation." Mr. Southard declared that the execution of the law of 1820 "had tended to make officeholders servile suppliants, destitute of independence of character and of manly feeling."

The partisan power which the four years' term system had thus suddenly and vastly increased, aided by the prestige of Jackson's Administration and the forces marshalled for Van Buren's election to the Presidency the next year, sufficed to prevent the repealing act passing the House. The narrow partisans of the Senate carried the day against its great statesmen. The victory of the spoilsmen increased the pressure and strength in favor of extending short terms, which the partisan leaders demanded.

They next laid siege to the Post-Office Department. The postal administration, which, when Washington became President, required only seventy-five postmasters, at the opening of Jackson's first term required about eight thousand. Practically, the tenure of postmasters had been during good behavior and efficiency, and there was no term fixed by law. The management of the postal service had been upon business principles, the Postmaster-General appointing and removing postmasters. There was no good reason for a radical change in that regard.

Upon such principles, Mr. McLean, as Postmaster-General under John Quincy Adams, had, with great satisfaction to the people,

managed our postal affairs. He was not willing to enforce the new "spoils system" in his office; and for that reason Jackson hastened to remove him to the Supreme Court bench, and to put a more compliant and most inefficient officer in his place.

It was very natural that the attempt should be made to extend the victorious four years' term theory to the Post-Office. Every partisan manipulator wishing more offices to give as bribes, every influential politician desiring to be a postmaster, and every Congressman seeking patronage, had an interest in favoring it. It would strengthen the theory in the Senate if a bill for enforcing it should contain provisions for increasing the patronage of Senators by requiring postmasters to be confirmed by that body. Accordingly, in 1836,—the year of Van Buren's election as President,—a bill was passed requiring that all postmasters whose compensation was one thousand dollars a year or upwards should be appointed by the President and confirmed by the Senate, and that their term of office should be but four years. They were made removable "at the pleasure of the President."

It is not easy to decide who was most pleased with such a law —the partisan managers, whose spoils it greatly increased, the Senators, whose patronage it more than doubled, or President Jackson, to whose despotism it added many vassals. But what each gained was the common loss of the people; nor was there hardly a pretence that any public interest—unless a perpetual rotation of postmasters and a more universal proscription are in the public interest,—would be served by this postal service revolution.

Postmasters whose income was less than one thousand dollars were left to be appointed and removed by the Postmaster-General, and their original Constitutional tenure was left unchanged, no four years' or other term applying to it.

Thus were a great number of purely business offices deliberately brought within the range of political forces—subjected to Senatorial confirmation, given a term which both suggested and facilitated their being made incentives and rewards of selfish activity, and a part of the spoils of partisan victory in every Presidential election. Nor was this all. New grounds of difference between

the Senate and the President were thus created, and great strength was added to the growing power of patronage in that body, which in later years has enabled it to usurp and exercise a controlling and dangerous influence over the appointment and removal of all the principal officers of the Government. Here was the beginning of a great and lamentable change in the character and influence of this body.

No further legislation beyond these two Acts of 1820 and 1836 was necessary to make complete and disastrous a great revolution in the politics and official life of the country. But various other administrative officers have since been given a term of four years; and it is worthy of notice that Congress, disregarding the great distinction between legislative and ministerial functions, *has never given an officer a longer fixed term than four years.* It looks almost as if it had been a settled purpose to force the occupant of every official place, by a fear of losing his office, to become a servile henchman and an intense partisan worker in every Presidential contest.

Greatly as the country was alarmed by the manifest degradation of political life which the new system was causing, the great contest concerning slavery—becoming absorbing at this time,—was fatal to any considerable effort for reform from 1835 to 1867, when Mr. Jencks brought the subject before Congress, prudently directing attention mainly to methods for entering the public service, rather than to term or tenure. It soon appeared that the first condition of reform was fuller information among the people in regard to administrative affairs.

For more than thirty years, the methods of administration, the debates and the political literature of the country had been misleading the people in the spirit of the "spoils system," and hardening them into acquiescing familiarity with its abuses. The new theory of short terms for the inferior executive officers had come by many to be regarded as an essential part of our original institutions. The new tenure of official favor and partisan servility had been accepted by not a few as peculiarly and essentially republican. The evils they had caused or greatly aggravated were generally

regarded as the inevitable drawbacks against the blessings of our liberal institutions. A generation had grown up which accepted the doctrine of rotation in the executive offices as a rule of justice, if not an evidence of liberty. A great portion of the patriotic and honest voters of the country had been induced to think that parties could not prosper (if, indeed, they could live,) without a quadrennial opportunity of using the public offices as rewards and bribes, and the right, at all times, of forcing those who fill them to do the partisan work of politics. They were consenting that the Government should be plundered as an enemy by each party that captured it, to enable that party to be strong and beneficent for the benefit of the people.

These short terms rest on the false and pernicious theory that the most salutary admonition for good official conduct in an executive subordinate is not a sense of direct responsibility to his superior, and a right and duty on the part of that superior to remove for good cause, but the certainty of going out at once when his political opponents succeed, and of going out very soon, however faithfully he may serve the people, in order to make a place for the next rotationist in the order of political favor. Every time that an efficient and faithful officer left his place at the end of his term, or was sent away for political reasons, a sort of proclamation was made to the people that the well-doing of the public work was not what the Government most sought, but effective party workers and compliant tools of party managers.

We have only to contrast such theories—which tens of thousands of patriotic, candid voters were persuaded to accept, and which even yet threaten the cause of true reform,—with the sound conclusions of our greatest statesmen, in order to get a vivid sense of the demoralizing consequences of familiarity with false methods in politics.

"Let it once be fully understood that continuance in office depends solely upon the faithful and efficient discharge of duties, and that no man will be removed to make place for another, and the reform will be half accomplished,"* are words of the late President

* President Garfield's speech, Athens, Ohio, 1879. This language, as well as

which condemn the whole theory of these short-term statutes. No other facts can so plainly illustrate the degradation of our standard for official life since Jackson's election, as the single fact that candid men should doubt whether character, rather than influence, should gain a ministerial office, or whether faithful and efficient service, rather than partisan work, should measure its tenure.

It should be noticed that those four years' term provisions did not extend to the clerks and other inferior officers in the great departments at Washington, or to the subordinates of postmasters, of collectors, or of naval and other officers named in the statutes. Nor did these quadrennial terms—applying only to postmasters whose compensation was one thousand dollars a year or more, and who alone were made confirmable by the Senate,—embrace more than about four hundred out of the eight thousand postmasters, or one-twentieth of the whole number. Nor have these humble postmasters, or any of those subordinates, or any of the subordinates of the internal revenue service, yet been subjected to a four years' term. Even Jacksonian politicians dared not make those terms more comprehensive; only some politicians of our day propose that.

The collectors nominate and the Secretary of the Treasury approves the selection of these customs service subordinates. The Secretary removes them. The postmasters, within the limits of the

that which we shall subsequently quote, shows how unwarranted are the inferences which some persons attempt to deduce from the late President's inaugural address, to the effect that he favored the fixing of short terms of office. He there says nothing about fixing any term, but speaks only of "the tenure" and "the grounds upon which removals shall be made during terms," (which, as we have seen already, exist as to many offices,) and nothing can be plainer than that he held that removals should be for cause, and that the right of removal should be in the Executive, and not in the Members of Congress. In the inaugural, he declares, in substance, that he wishes a more stable tenure "for the protection of those intrusted with the appointing power," and of "incumbents against intrigue and wrong," etc., through "pressure." What pressure he meant, he had defined in a speech in Congress in 1870, when he said: "We press for appointments; . . . we crowd the doors; Senators and Representatives fill the corridors and throng the offices, until the business is obstructed and unworthy besiegers get places." And see the quotations on subsequent pages on this point, which are decisive as to his view being as here stated.

appropriations, both select and remove—or, in the language of the law, employ and dismiss,—their own subordinates without any overruling authority being provided by law.

But the moment the heads of these offices and the prominent postmasters were given the same four years' terms as the Postmaster-General and the Secretaries presiding over departments, (as to whom such terms rest, as we have seen, on very different and adequate reasons,) and the rotation "spoils system" was well established, the tenure and term of the subordinates and the small postmasters inevitably became as precarious if not as short as those of their superiors. If a four years' term and a tenure conditioned on both the servility of the officer and supremacy in his party were best for the collector and the postmaster, why were they not best for their clerks? If best for the postmaster whose compensation was one thousand dollars, why not best for him whose compensation was one hundred dollars, or only ten dollars? All over the country, from the post-office doorkeeper and the custom-house scrubbing-woman, to the Postmaster-General and the Secretary of the Treasury, that term and tenure, by the force of such logic and the pressure of party leaders for spoils, tended to become potential and universal.

When a statute of Congress could be cited to prove the wisdom of removing a great postmaster to serve the ends of party in States and cities, how could a Postmaster-General resist the demands of the town and village politicians that the little postmasters should be selected and dismissed to serve the ends of little factions and cliques? And how could postmasters refuse to employ and dismiss their clerks upon a theory any less regardless of the public interests? It was the inevitable result of such a system, that a servile partisan spirit, an intense, selfish political activity,—forever meddling with the freedom of elections, forever bartering places for votes,—and a consequent demoralizing neglect of the public business, were everywhere developed in the postal not less than in the customs service.

How fatal these frequent removals were to experience, to salutary ambition, and to all the conditions which would attract the

most worthy to the public service, could be shown by the most varied and overwhelming evidence. I have space for illustrations from only a single office—that of the custom-house at New York.

A Democratic collector, in three years, between 1858 and 1861, removed three hundred and eighty-nine of the six hundred and ninety of his subordinates there; and a Republican collector, in three following years, removed five hundred and twenty-five out of seven hundred and two of these subordinates. At a later period, when the Democrats had lost power at Washington, the proscription was, if possible, even more shameless and disastrous on the part of Republican collectors in the interest of rival factions among themselves. Collector Smythe, for example, in three years, removed eight hundred and thirty out of nine hundred and three, and Collector Grinnell, in sixteen months, five hundred and ten out of eight hundred and ninety-two, being an official execution every day of his term, with thirty extras left for Sundays. The *aggregate result was that, in the fifteen hundred and sixty-five secular days preceding the appointment of Mr. Arthur as Collector in 1871, there were sixteen hundred and seventy-eight removals in the New York custom-house, or more than at the rate of one for every such day, for five years continuously!* Every removal, as a rule, involved a long, demoralizing struggle to retain the place, and servility and all the resources of partisan and personal influence and intrigue in behalf of those seeking to gain it. Who can estimate, or even imagine, the elements of feverish and pernicious activity which the hopes and fears of such changes among more than twelve hundred officials in a single office in a great city contributed to all the lower circles of its partisan politics? The feeling that any day might be his last in the public service, and that no merit would ensure retention or promotion, tended equally to repel the most worthy citizens from the public service, and to degrade the manhood, distract the thoughts and destroy the efficiency of those who entered it. Why should a man of any capacity or self-respect trust himself to the chances of an employment the conditions of which might at any moment condemn him to be the next victim of these daily executions, and in which, if he continued, he would be forced, at the bid-

ding of party leaders, to do the dirtiest work of factions and to supply their chieftains, from his salary, with the money they might demand for their battles and their elections? It is not part of my purpose to show how lamentably the public service and the Government itself were degraded in public estimation; how much more expensive our customs administration has been than that of other countries; what numbers of partisan favorites were needlessly put upon the pay-rolls; how arbitrary assessments led to peculations and neglect which they were claimed to justify; or how many millions were lost by the smuggling, bribery, inexperience and incompetency attending the collection, through an ever-changing succession of inexperienced partisan officials, of more than four hundred and eighty thousand dollars of revenues each day at that single office,—which are indirectly traceable to the low capacity, low character and low standard of duty of which such terms and tenures—prevailing alike in the Federal and municipal services at New York,—were in great measure the cause. It is a disgraceful, admonishing history, with which the civilized world is but too familiar.

These causes were, without doubt, far more disastrous in that office and the New York post-office than elsewhere; but they were rapidly extending in all the large cities; and in almost every Federal office of the country they were in some degree injurious. Referring to such causes, the late President Garfield declared in Congress that under a judicious civil service the Government could be carried on at about one-half its usual cost; and in his last annual message, referring to the same system in city affairs, Governor Cornell of New York declared that one-third of the officials of New York could be "mustered out" with advantage to the public.

The same term and tenure which repel persons of capacity and self-respect, attract the incompetent and the shiftless, thus tending to make the public offices the asylums of partisan henchmen, personal dependants and bankrupt imbeciles. Let me not be thought to use too strong language. In an article in the *Atlantic Monthly* for July, 1877, the late President Garfield said of such a system: "It degrades the civil service itself; . . . . it repels from the service those high and manly qualities which are so necessary to a firm

and efficient administration; it debauches the public mind by holding up public office as the mere reward of party zeal."

The illustration of the New York custom-house should be carried yet farther. It was not long after Mr. Arthur became Collector in 1871, before he was convinced that a more stable tenure was absolutely essential to the improvement of the customs administration. Under great difficulties, he firmly acted upon his sense of public duty, removing only one hundred and forty-four officials in the five years of his holding office, as against the sixteen hundred and seventy-eight removals in the previous five years. A less expensive and a much improved administration were the practical results. In a letter to Secretary Sherman, dated 23d November, 1877, Collector Arthur says: "Permanence in office, which, of course, prevents removal except for cause, and promotion based upon good conduct and efficiency, are essential elements of correct civil service." The same conviction finds utterance in his letter of acceptance as Vice-President, in which he says: "The tenure of office should be stable. Positions of responsibility should, so far as practicable, be filled by the promotion of worthy and efficient officers." His views and those of the late President appear to be identical on these points.

Yet more decisive results, both in the economy secured and in superior officials brought into the service, have attended the more complete enforcement of the civil service rules and competitive examinations at that office under President Hayes and his successors, since July, 1878. From that date, during a period of about two years, for which I have the exact figures, only forty-four removals were made, and every one of them for cause; of which one was for assaulting a woman, nine were for taking bribes or passing uninspected baggage, five for intoxication, six for abandoning charge or place of duty, six for incompetency, two by reason of disabling sickness, six for absence without leave, two for insubordination, and the rest for analogous causes. I give these causes for removal that the reader may appreciate how essential the right and duty of removals in the head of a department are to discipline and efficiency, how absurd it is to adopt short terms as a substitute for removals, and

how impracticable it would be to bring up the discussion of such matters upon confirmations before the Senate. What could the Senate do with charges of such offences before it? Let the reader ask himself what would have been the effect, had there been a four years' term, with no such right of removal in the meantime in the case of such offenders? It should be added that since competitive examinations have been enforced there has been a waning pressure for unjustifiable removals, as no man could get into a vacancy unless by winning in open competition, and the most vigorous *pushers* are not usually the most formidable *competers* where real capacity is the test. The influence which resists a needful removal in the case of a culprit who was pushed in as the favorite of a party or as a vassal of a chieftain, is unknown in cases where the official without backers gets his place only by reason of his superior capacity as shown in the examinations.

The first results of the "merit system" thus disclosed have been substantially repeated at the New York custom-house, where competitive examinations, aided by a more stable tenure, have filled the service since the date last referred to, and have substantially brought to an end the series of scandals which for nearly two generations had disgraced that office.

Other effects injurious to the administration and politics of the country, either caused or greatly aggravated by these four years' term statutes, have become too serious to be passed without notice. I refer especially to Congressional patronage and the usurpation of the executive power by the Senate in connection with confirmations, a subject which requires a whole article for its proper treatment. When short terms were in theory made a sort of substitute for the discharge of the executive duty of removals for cause, and removals and appointments were based on political influence, and were held justifiable means of party aggrandizement,—when, by the very language of an Act of Congress, not the welfare of the public, but "the pleasure of the President," and (by analogy,) of heads of departments as well, were made the rule of action,—what more natural than that Members of Congress should first promise places (in aid of their election,) and next demand them of the President

and Secretaries as a condition of supporting their measures in Congress? That many members have stood above this form of bribery and coercion, and that the majority have but mildly participated in it, we may well believe; yet it has become an alarming evil, the peril of which no candid man will deny. A great proportion of all the appointments and removals in our public service have become a part of the perquisites and spoils of Congressmen, which have tended to the degradation of official manhood and to corruption and coercion at elections in manifold forms. A single appointment which a Congressman could control can be vaguely promised to and may influence a score of voters. How votes for appropriations have been influenced by the promise of appointments and removals, could easily be shown. It was an abuse which for more than a century disgraced the British civil service as much as it has disgraced our own; but there the enforcement of competitive examinations for admissions, reinforced by a tenure of merit, within the last twenty-five years, has almost wholly removed the evil. Our situation in this regard is now much what that of Great Britain was in 1855, when her vigorous reform began.

The evil, however, has been far the greatest in our service in connection with confirmations by the Senate. In the spirit of the Constitution and according to the usage of its framers, the Senate was only to consider the personal fitness of the nominee for the place. After those short-term laws facilitated a rotation of favorites and supreme regard for partisan consideration, confirmations began to depend upon State politics and Senatorial favoritism. Senators began very generally to be the partisan commanders and the patronage-dispensers of their States,—the feudal lords of State politics. The great test on confirmation became more and more the bearing of the proposed appointment upon the local politics in the place where the nominee was to serve, or upon the next Senatorial election; and, provided the candidate was fairly respectable, his administrative capacity for the vacant place was little regarded. In other words, the confirmations very generally disregarded the only motives which it was fit for the Senate to consider. As every Senator was similarly situated, and each could have his own ends

served only by conceding the same autocracy to his fellow-Senators which he desired for himself, there was a common interest and opportunity for self-aggrandizement by usurping the executive powers of appointment and removal. The short-term, tenure-at-pleasure statutes of 1820 and 1836, by bringing many more officers into the Senate to be confirmed,—as many as four hundred postmasters when the last act went in effect,—equally contributed to strengthen the partisan spirit which gave them birth and to facilitate the Senatorial usurpation of which they are the bulwark. Reinforced by these statutes, Senators were enabled to say to each other (at least, by their conduct): "You control the appointments for your State, and I will control those for mine. Let us have a law of division and good manners,—to be called 'the courtesy of the Senate,'—for the enjoyment of this patronage, according to which Senators from each State shall take to themselves as perquisites the naming of all officials to serve therein, and also a fit share of those to be confirmed for service at Washington, it being further understood that each Senator's approval of his man shall be held to supersede the duty on the part of the other Senators to investigate the merits of that favorite." Such, in spirit, is the courtesy of the Senate. The rule, of course, is not executed universally or with exactness. Many Senators condemn it in theory as a selfish monopoly and a revolutionary usurpation; yet it generally prevails. It requires real courage and patriotism to stand up against such a courtesy. To do it, the Senator must surrender power dear to his pride and ambition, must offend fellow-Senators by rebuking a usage they enforce, and must curtail his own ability to give places which his followers demand at his hands. That this courtesy is utterly repugnant to the spirit of the Constitution, to the early practice under it, to the duty of the President to see that the laws are faithfully executed, and his ability to do so, to the independence of the Senators themselves for the fit discharge of their functions, to the counterpoise and strength of our institutions, and is in every way demoralizing and pernicious, are facts almost too plain to be reasoned about. Only an enlightened and indignant public opinion can overcome this abuse. It need not be questioned that the infor-

mation of Senators as to the merits of persons seeking office from their States may in a proper way be with advantage brought to the attention of the President. There are Senators whose action in that regard is unselfish and patriotic. But it is almost impossible that partisan interests should not be potential. The pressure put upon Senators is almost overwhelming, and their power to resist it is all the more feeble because their whole interference with nominations and removals is known to be indefensible and without a sense of legal responsibility. They force the President from the line of his duty by demanding favors in disregard of their own, and yet hold him solely responsible for consequences. He pleads this interference as an excuse. Such facts make this courtesy and usurpation the most formidable obstacles in the way of establishing a proper tenure of office, and of every other effective method for reforming the civil service.

This Senatorial usurpation at first included only nominations; but it was soon extended to removals. If the President could not appoint for a State except with the approval of its Senators, of what avail was it to remove, and thus only impair his own ability to have the laws faithfully executed? The Senatorial control of confirmations was therefore readily converted into a control of removals.

This necessity forced the President to bargain or supplicate with Senators for permission to remove. But Senators demanded even more than that. Statutes known as tenure of office acts, passed over the veto of the President, were resorted to in order to reduce the power of removal to a direct dependence upon the confirmation of a successor; and, under the "courtesy," confirmation would, as a rule, depend upon the pleasure of the Senators from the State where the removal was sought to be made.

The quarrel with President Johnson afforded a pretext for such tenure of office acts, which of course greatly increased the influence of the Senate. But the refusal of the Senate to recede from its usurpation, or repeal those acts, after all plausible excuse for them had ceased, ominously illustrates the profound selfishness and ambition in which that usurpation is entrenched.

As the law now stands, under the Tenure of Office Acts of 1867 and 1869, no officer nominated, subject to confirmation by the Senate,—of which there are about thirty-five hundred,—can be removed, except with the consent of the Senate. During the recess of the Senate, the President may suspend such an officer, and the suspension will be effective until the end of the next session, subject to an agreement between the President and the Senate in the meantime.

The deplorable significance of this condition of affairs cannot be mistaken. That great executive power of removal for good cause —the public, just, vigorous and uniform exercise of which is essential to all fidelity, to all economy, to all efficiency, and to every wholesome sense of responsibility, alike on the part of the superior officer who wields it and every inferior officer who is subject to it,— is apportioned and enfeebled. The greater part of it is handed over to a body acting secretly and through political majorities, the members of which neither have nor feel any direct responsibility for the working of the executive branch of the Government. The President, constitutionally responsible for the faithful execution of the laws, can neither appoint nor remove any one of nearly thirty-five hundred of the higher officials through whom those laws are to be executed, without the consent of the majority—generally the political and perhaps the hostile majority,—of the Senate, if, indeed, he can make such removal or appointment without the consent of the Senators of the State where an official delinquent defies executive authority. Need it be declared that such a system humiliates the Executive,—that it weakens his sense of responsibility for good administration in the same degree that it impairs his ability to secure it,—that it emboldens his subordinates to defy him and the heads of departments, teaching such subordinates to seek the protection of Senators by becoming their vassals in the politics of their States? Need I enlarge upon the tendency of such a system to cause the wishes of Senators to be potential, and their favor to be courted in the great departments, custom-houses and post-offices, where their power should only be felt through independent criticism or stern investigation, to which their having

favorites in office is almost sure to be fatal? Need it be pointed out that such a system tends to constant collisions or corrupt bargains between the Executive and the Senate? That system tells the people that partisan work and interests are the supreme standards for ministerial offices. It makes the Senate as much an executive as a legislative body, its action tending more and more to impair the counterpoise and stability of our institutions. Senators are more than ever before pressed by politicians of every class to make their action upon nominations and removals serviceable to the local interests of parties, factions and chieftains, whereby it has become equally unusual and difficult to make that action turn upon anything else. The struggles about the Collectorship at New York, the course of Mr. Conkling, and the late all-night contest about the removal of the postmaster at Lynchburg, Virginia, are but examples of this tendency.

The same causes which have powerfully tended to make Senators the partisan autocrats and patronage-purveyors of their States, have drawn upon them a vast demoralizing solicitation for office against which Senator Dawes has so strongly protested, to make their elections scenes of intense strife and lamentable corruption, to absorb the time needed for their public duties, to blind them in clouds of adulation, to make them unmindful of the higher sentiments of the people, and to cause the Senatorial office itself to sink in public estimation. In estimating the patronage and the control over State politics and elections gained by Senators through their power to appoint and remove collectors and postmasters, it must be borne in mind that Senatorial dictation may, and very generally does, extend to the selection and removal of the subordinates of those officers, so that Senators, as Mr. Clay in 1835 prophesied they would, have very generally become a sort of feudal chiefs in the political affairs of their States, whose authority now dominates alike Federal officials and State elections.

A few days after President Grant's first inauguration, when every plausible excuse for retaining the Tenure of Office Acts had ceased, the House, which has no share in confirmations, declared itself for the repeal of those tenure of office acts by a vote of one

hundred and thirty-eight against sixteen. In the message of December, 1869, President Grant declared "those laws inconsistent with a faithful and efficient administration of the Government." A few days after that message, the House again voted their repeal by a majority of more than six to one; and in 1872, without a division, the House a third time voted their repeal. The Senate was persistent for its courtesy and its usurped power, and the majority of its members uphold them still, relentlessly exercising the authority they confer. In this policy, Mr. Conkling was a leader, and fell under its rebuke by his own State.

In strong and earnest language, President Hayes repeatedly urged the need of the President being allowed his legitimate authority, and of Members of Congress confining themselves to their proper functions.

In a speech delivered in Congress in 1872, the late President Garfield declared that "for many years the Presidents had been crying out in their agony to be relieved from the unconstitutional pressure from the legislative department; that we have reached a point where it is absolutely necessary that Congress shall abdicate its usurped and pretended right to dictate appointments to the Chief Executive." In an article in the *Atlantic Monthly* for July, 1877, he further declared that the Tenure of Office Acts "have virtually resulted in the usurpation by the Senate of a large share of the appointing power. The President can remove no officer without the consent of the Senate, and *such consent is not often given unless the appointment of the successor . . . is agreeable to the Senator in whose State the appointee resides, . . . which has resulted in seriously crippling the power of the Executive, and has placed in the hands of Senators and Representatives a power most corrupting and dangerous.*" He says that "one-third the working-hours of Senators and Representatives is hardly sufficient to meet the demands made upon them in reference to appointments for office." "It will be a proud day," he adds, "when a Senator or Representative . . . has it not in his power to secure the removal of the humblest clerk in the civil service of his Government." Pages might be filled with condemnation by the more in-

dependent Senators of this usurped power of dictating in executive affairs. In the November number of the *North American Review* of last year, Senator Hoar tells us that, when such authority is transferred from the Executive to the Senate, it is "taken from an officer responsible and impeachable, and transferred to a numerous assembly acting on such questions in secret without individual responsibility," and that "in this way the executive may be subjected to another branch of the Government." Of this increased Congressional patronage, Senator Dawes has lately declared that "it subordinates the duties of the legislator to the distribution of favors, the liquidation of debts, and the making of provision for the thriftless;" and Senator Pendleton, that "it draws Senators and Representatives into neglect of the chief duty of legislation, and too often into making the support of an Administration conditional upon obtaining offices for their friends."

Such is the situation in large measure caused, and in every particular aggravated, by short, fixed terms and a precarious partisan tenure. Surely, it is not too much to hope that the day is not distant when Senators will concede to the President that Constitutional authority essential to the fit discharge of his functions, and will cease to give to usurped interference with the executive duties of nominations and removals the time and thought so much needed in the sphere of legislation. When we see such momentous subjects as the proper count of the Presidential vote, and the conditions upon which a Vice-President may take up the work of a disabled President, held in ominous suspense,—while contests about a single postmaster are absorbing the Senate and drawing its members into angry debate concerning the politics of a State,—it is well to remember that the four hundred postmasters which the law of 1836 first brought into that body for confirmation are now increased to eighteen hundred and forty, and are growing more numerous every year. The period is not remote when the whole time of the Senate will not be sufficient for confirming postmasters alone—as they are now confirmed. When we consider the small proportion of the inferior officers to which four years' terms have yet been extended, we can better estimate the consequences of acting upon Jackson's

advice by making such terms universal. The whole number of such officials now subject to the four years' term is, I repeat, only about thirty-five hundred, of which about thirty-five are in the Treasury Department at Washington, more than one hundred are collectors, and eighteen hundred and forty are postmasters, to which naval officers, surveyors, and the other officers with the most diverse duties, must be added.

The proposal, therefore, to make that term general is nothing less than this: that each one of the more than seventy-five thousand other inferior officers shall either go out at the end of four years, or keep in through contests of influence and favoritism. Does any candid man believe our institutions could stand such a strain?

It is quite true that the example of a four years' term and a tenure by favor on the part of the thirty-five hundred of the most prominent of such officers, aided by the laws which proclaim the virtues of quadrennial rotation, have caused a great portion of those in the grades below them to be frequently changed. Yet it is a significant fact, standing in strong condemnation of a four years' term, that, despite such examples, the average periods of service in the lower offices—of late, at least,—*have been two or three times four years*, and have been the longest where administration has been best and politics least partisan and corrupt.

The average time of service of the more than forty thousand postmasters whose term is not fixed by law has probably been about ten years,—at least, if we exclude post-offices established within that period; and that of the subordinates in the New York City post-office—where Mr. James and his successor have enforced the civil service rules and competitive examinations with such admirable results,—is unquestionably still longer, there being among them one who has served since 1825, about a hundred who have been there twenty years, and forty-eight who have been there twenty-five years. It is believed that the average period of service of the inferior officers of the Treasury Department (and certainly of the State Department,) at Washington is yet longer. There is good reason for believing that the term of service of collectors, and of the postmasters at the larger offices, who are confirmed by the

Senate for four years, has been considerably shorter than that of their subordinates or of the minor postmasters. There have, for example, been three collectors at New York during a period of about ten years, in which less than two hundred out of about thirteen hundred subordinates in that office have been changed. And the removal of the late Collector Merritt in the middle of his term of four years without any cause connected with the discharge of his duties, stands as a conspicuous warning that a four years' term is, to say the least, not a check upon removals.

Consider the direct consequence of a four years' term for the subordinates of the Treasury Department. There are serving in that department at Washington more than three thousand officials—say, two thousand and fifty males and one thousand and sixty females, without any fixed term. A four years' term would require over seven hundred changes there each year, or successful contests for a re-appointment,—more than at the rate of two every secular day,—changes as frequent as the most barbarous partisan proscription has ever accomplished at the New York custom-house. Could a Secretary of the Treasury do more than arrange with contesting politicians, Congressmen and factions for these daily appointments?

We have seen that in the seven years during which reforms were carried over their first stages by Collector Arthur, and under his successors, through competitive examinations, worked a revolution at the New York custom-house, there were only one hundred and eighty-eight removals from a force of over twelve hundred and fifty subordinates; but a four years' term would *either have taken from the office every person in it, and three-fourths of* the most experienced of their successors, or have involved successful contests for over two thousand re-appointments in order to retain the experienced officials. A new appointment there every day would be quite inadequate under such terms. Very likely, there are persons in that office who might with advantage be removed; but the difficulty is not in removing those who, without backers, came in through competitive examinations, but in removing those whom great politicians and factions pushed into the service, and

who are at hand to push, bully and punish if the attempt be made to remove them.

If all postmasters were given a term of four years, instead of there being, as now, but four hundred and sixty, of the eighteen hundred and forty subject to a four years' term, who are required to go out each year, or to successfully fight the battle of re-appointment, there would be over ten thousand and five hundred of such cases each year, or about thirty every day, to be dealt with, to which must be added one-fourth of all the subordinates in all the post-offices in the United States and all cases of resignation and removal. If it be conceivable that an intelligent people can ever enter upon such changes, it is plain that there must be an additional Postmaster-General, with no other duty than working a vast machinery of rotation and fighting the politicians.

Consider the effect of a four years' term upon the post-office at New York. It would require between four and five times as many changes each year as have been annually made in the period during which its administration has been so wonderfully improved. Two new selections or re-appointments every three days would not fill the places which such a term would vacate. Nearly the whole time of a postmaster would be required to attend to them. Besides the pressure for re-appointments, there would be various new contestants for the vacancy. Trained experience would, of course, be diminished in the ratio that changes would be increased. The brevity of the term would repel the most worthy from seeking to enter, and would be fatal to that ambition and zeal which are inspired by hopes of promotion when tenure is based on merit. It has been such a tenure and such hopes, aided by the superior persons secured by competitive examinations, which have enabled Mr. James and his successor, Mr. Pearson, to give that great office its pre-eminence for efficiency and economy.

It is enough to suggest that disturbing elements and disastrous changes of the same kind would be the consequence of a four years' term in all the departments, at every custom-house, and at each of the thousands of post-offices, which would add a vast aggregate to the demoralizing forces of our politics. The great ocean of politics would be more stormy than ever before.

But it should be clearly comprehended that the increased changes there we have estimated would not be merely a substitute for those which take place at present, or under a tenure of good behavior, but *an addition to them.* The right of removal for cause, and the duty of exercising it, are essential alike to the purity, to the efficiency and to the discipline of the public service; and they are not less so when terms are short and tenure precarious, than when fidelity and efficiency are encouraged by the hope of being retained if the most worthy. Under whatever term or tenure, there must be a right and duty of removal for at least these causes: (1) Conviction of an offence involving infamy or corruption; (2) dishonest or infamous conduct admitted or made clear; (3) mental or physical incapacity for official work; (4) habitual inefficiency; (5) wilful neglect of duty; (6) intentional disregard of lawful instructions or regulations; (7) intemperance.

The need of removals for such causes shows that neither a life tenure nor a tenure for good behavior can be accepted; at least, unless the meaning of good behavior shall be so extended as to include all the other causes above mentioned. The Government must deal with its officials upon fair business principles, leaving pensions and other benevolent aids to be bestowed upon clearly defined principles of their own. The same reasons of economy and self-protection which do not allow its affairs to be entrusted to boys and girls, must forbid their being left to the care of dotards or imbeciles.

It is too plain for argument that the official who has little hope of holding his place beyond a short term, or whose tenure may any day be severed by the defeat of a party, or the caprice of a great politician or Congressman, is held to duty and moved to effort by reasons vastly weaker than those which shape the life of him who feels that good conduct and efficiency are the security of his place. Suppose the terms were reduced to a year or to a month, and that, at their end, rotation was made inexorable; will any candid man assert that there would be more capacity, honesty and efficiency, or a more salutary ambition, in the public service? or would it fall, more than ever before, into the hands of the shiftless, reckless and incompetent, who, without hope or aspiration, would make it a mere

refuge from the necessities of the hour? Nor would such a vagabond service be less in need of removals as a means of enforcing discipline and efficiency, for both would diminish in the proportion that terms were made short.

Clearly, then, removals for cause must be not less but more frequent and imperative under short terms of office, and they must be in addition to all the changes caused by the expirations of such terms.

Who does not plainly see that each of the forty-four removals for cause, in the New York custom-house, for example,—the grounds of which we have stated,—would have been quite as necessary, had the term been four years, as when no term was fixed? Let us, then, clearly perceive that the proposal to give a four years' term to the nearly eighty thousand executive officials now holding their places subject to no term, *is not only to make about twenty thousand vacancies each year inevitable, but it is to add that number to all those which may arise from resignations and from removals for any legitimate cause.*

But these considerations come far short of suggesting the multiplied changes and instability which a universal term of four years would cause. That term was provided by law in 1820 and 1836, as we have seen, for a few of the higher offices, on the theory that a longer holding of executive places was a monopoly, and that a quadrennial rotation was republican justice. The demand that the same term be now extended to the near eighty thousand inferior places is mainly in the spirit of the original movement, the exception being on the part of a few sincere and patriotic citizens who imagine that the "spoils system" recommendation of Jackson's first message to that effect may be metamorphosed into an agency of reform!

The fact that those holding under four-year terms have, as we have seen, retained their places for much shorter periods than those unaffected by such terms, seems decisive that short terms tend to instability—in other words, produce the rotation which their champions favor. The more carefully we consider the subject on grounds of reason, the more fear we may well have if short terms are to be

made universal. Quite aside from the fact that such terms are demanded in the name of rotation and of the communistic theory that every man has an equal right to office, they make a sort of legislative proclamation of such doctrines. They apply alike to worthy and unworthy officials, and hence tell the people that every officer, no matter how pure and useful, should leave his place at the end of four years. He is, in the spirit of such law, if he stays longer, an odious monopolist, holding by favor what belongs to another. A law fixing a four years' term plainly says that a ministerial officer should not hold his place either so long as he remains upright and efficient, or so long as his superior officer regards him as more useful to the public than an inexperienced man would be, but that, for reasons paramount to all such considerations, his service should end absolutely with the four years. These reasons—however partisan, communistic, or corrupt,—are by the legislative made imperative upon the executive; they are unavowed by the law, and are left to mere inference on the part of the people. They are reasons, at once vague and mysterious, which plainly and equally disregard personal merit in the inferior officer displaced and the responsibility of his superior for good administration in his own department. At best, they are an invasion by the legislative upon the executive; for they fully imply that the executive shall not remove those unfit for the public service, and cannot be trusted to decide how long the services of a subordinate are useful to the public—powers which, under the Constitution, plainly belong to the executive. Will any well-informed, candid man claim that our executive service has been injured by too much stability or experience on the part of those who fill it? Can any facts be referred to which show that the public work would be done better or with less expense if the service of the near eighty thousand officials not under a four years' term had been as short as has been the service of the thirty-five hundred who hold under such a term? On the contrary, have not inexperience, incapacity, instability and political intrigue and agitation—which are the natural results of too frequent changes,—been among the great evils of our official life?

Such considerations will prevent the provision of short terms ever being regarded as legislation in the interest of efficient or economical administration. They will be regarded as the enforcement of a pretended system of justice in office-holding,—as an approval of increased patronage for parties—of diminished power in the executive over its own subordinates,—of encroachment on the part of Congress beyond the sphere of its responsibility,—of more absolute dependence upon mere favor on the part of subordinates. Such theories, taught by law, would powerfully tend to increase the frequency of removals without cause, and to make more respectable and potential the demands of parties, chieftains and great officials for patronage, rotation and spoils.

Short terms are in principle a sort of invitation, even to the Executive himself, to remove for reasons other than the good of the public service; for those terms are in substance a removal, every four years, of every person in the public service, not for avowed cause, but utterly irrespective of the merits of those removed. It is now the plain right and duty of the Executive to remove for cause, and not to remove without cause. But the four years' term statute provides for additional removals, irrespective of this right and duty and regardless of the judgment of the Executive. They emphatically teach servility by saying to every subordinate: "Your sole chance of holding beyond the four years depends on Executive favor exerted for your re-appointment. A peaceful holding is not to be a consequence of well doing. Look to favor and influence. Under the laws of your country, or by reason of any merit or usefulness they pretend to respect, you have no claim to stay an hour beyond the quadrennial period." Mr. Webster, in 1835, in urging the repeal of the four years' term of 1820, covered the ground in these words: "The law itself vacates the office and gives the means of rewarding a friend without the exercise of the power of removal at all. Here is increased power with diminished responsibility. Here is a still greater dependence on Executive favor, and, of course, a new dominion over opinion and over conduct."

If official merit, in the estimation of the appointing power, is a

good reason for continuing longer in office, why bring the holding to an end by a fixed term? The end of the term but refers that same question to the identical authority which would, except for the term, have decided it. If unworthy to decide when to remove for cause, is not the superior officer unworthy to decide when to re-appoint for merit?

But the four years' term law does not stop there. It not only arms every office-seeker with a new argument for demanding for himself the place of the experienced official whose place it vacates, but it enables that demand to be complied with without the responsibility of a removal. In other words, it invites rotation, justifies it, and makes it easy and irresponsible. From the collector, postmaster and heads of departments,—who have thus far been able to retain their subordinates for ten or more years,—the extension of that term would take away all means of self-protection, and leave them at the mercy of that tremendous pressure of party leaders and patronage-mongers which the late President Garfield forcibly portrayed. Every reason which could be urged in favor of a four years' term law could also be urged by party managers and great officials against re-appointments at the end of those terms. For, how is rotation to be secured,—how is each man any more certain to get his fair share of office under short terms,—if all the good officers who ought not to have been removed are to be re-appointed at the end of their terms? If there are not to be more changes under a four years' term than without it,—if inexperience is not to be increased, and skilled servants whom the public has educated are not to be driven out,—then what the gain of the short-term law upon the theory of its advocates? It would not cause rotation.

There are doubtless a few worthy persons who favor a law creating a four years' term, because they think it may be made a substitute for removals, and perhaps have a vague idea that it will promote justice. But all experience and the very nature of the proposed change should admonish them. The arguments of the party managers who favor short terms, and of the amiable reformers who incline to accept them, are utterly incompatible.

When a minority of doctors could not admit a blister to be a cure for a carbuncle, they agreed to an application of ice on one side and of the blister on the other side; but such reformers propose an absolute assent to more fuel for putting out a fire.

Every patronage-monger,—every caucus manipulator,—every shiftless office-seeker of the land,—every aspiring demagogue longing for more offices to pledge for votes,—every unscrupulous chieftain seeking more callow officials to tax and more places to give as bribes,—every intense partisan believing that spoils are the strength of parties, and that rotation in office is a vital principle of republics,—is not only in favor of a four years' term, but will insist on true Jacksonian proscription during that term. Can any argument be necessary to make it clear that every concession to such theories but intensifies and embitters the communistic, partisan and proscriptive spirit which they embody? Every admission in the statutes that some other person than the responsible executive officer shall decide how long his subordinate shall be retained, or that reasons independent of the merits of the subordinate shall determine that decision, strengthens the arguments of the spoilsmen in the same degree that it impairs the discipline and efficiency of the service and departs from the principles of the Constitution.

The language of Mr. Jefferson, in his letter to Mr. Madison already quoted, concerning the four years' term created by the Act of 1820, is prophetic. "It saps the constitutional and salutary functions of the President and introduces a principle of intrigue and corruption which will soon leaven the mass not only of Senators but of citizens. If will keep in constant excitement all the hungry cormorants for office; render them, as well as those in place, sycophants to their Senators." Mr. Conkling and his followers thought it had made the people also sycophants to their Senators.

If a ministerial officer should go out at the end of four years, in order that a new Administration or party coming into power may be able to put in men of their own opinions, why should he not go out at any time during his term if he ceases to hold the views of the ruling party? If a four years' term should be

provided to afford offices for all those seeking them, should they not be made yet shorter, and proscriptive removals during the term be added for the same reasons, when, as has lately been the fact at Washington, the ante-rooms are crowded with office-seekers, and the tables of the secretaries are loaded with office-begging letters? Such reasons are just as good for bringing down the term to two years, to one year, or even to two months, as we have seen was the fact in the Florentine and other Italian republics. We must reject rotation as a principle, or carry it to its legitimate results. If the best ability and character for serving the people, and the best and most economical administrators, be not the standard and the end recognized by law, then we can nowhere set them up against the claims of the communistic office-seeker or patronage-monger.

The proportion of Federal officials to the population ranges from one in twenty-four in the District of Columbia, to one in five hundred and forty in Vermont and one in fifteen hundred in Georgia. The average seems to be about one official among every six hundred of the population, or one official for every one hundred and fifty males and females with some competency for official duties. That, as a rule, from five to fifty persons make a contest or claim for nearly every vacancy, is well known. Will this demoralizing office-seeking be less,—will the feverish and selfish activity of parties and factions which it stimulates and feeds be diminished,—by giving a four years' term to eighty thousand additional offices on the demand of politicians and office-seekers who declare that every man has an equal right to office, and that a quadrennial rotation is but yielding to this right? Having, by proclaiming rotation to be a principle of republican justice, provided a place for one office-seeker in fifty, shall we be more or less able than before to resist the communistic demand of the other forty-nine office-seekers? Will it tend to dissuade them from demanding removals without cause, or to make them better satisfied that Senators hold for six years, and judges during good behavior?

It hardly need be pointed out that terms fixed by law would advertise to parties, to every office-seeker, and to the feudal lords

of patronage, the precise dates of every vacancy. He must know little of office-seeking, or of partisan methods for controlling appointments, who does not see that every approaching vacancy would be the subject of deliberate and mischievous bargains and combinations of influence for filling it. The appointing power would be solicited for pledges, men of prominence would be pressed for recommendations, party leaders would be besieged for influence, every corrupt element and every pernicious activity of politics would be intensified beyond anything yet known. For, so long as a removal must precede an appointment, there is a great uncertainty as to whether any vacancy will exist, and a concentrated effort at a decisive moment is generally impracticable. The appointing power has some chance of self-protection. An inevitable vacancy at a time known months or years before would change all this. The potentates of patronage would wrangle over, bargain for and apportion every vacancy months before it happened.

If any man doubt whether a four years' term for the clerks at Washington, and at the custom-houses and post-offices, would make our politics more feverish and corrupt, let him reflect upon the probable effects in these particulars of a one year or six months' term for such offices, as compared with the probable effects of a twenty years' term. Short terms would keep the patronage-mongers forever active, the partisan cauldron forever boiling. Congressmen would need to give two-thirds instead of one-third of their time, as now, to office-seekers; while the long term would suppress a large part of our corrupt patronage, and would for that reason be fiercely opposed by the worst class of politicians. If, possibly, by one extreme, we might burthen the departments with a few dotards, it is plain that by the other we might, for lack of experience, arrest the public work and make office-seeking and office-brokerage a great business of the country. Whether the fixing of any term as a substitute for a tenure, conditioned on good behavior and efficiency, and hence subject to the stern duty of removal for cause, would be a gain, is the decisive question. If any term is to be fixed, it seems plain that it should be one which recognizes neither the theory of rotation nor the claim of equal rights to office, irrespective of superior merit.

But it may be fairly said that the friends of a fixed term do not favor one of four years, but a longer term,—perhaps one of six or ten years. I must think the vast majority of them prefer a term of only four years, and that for the very reasons which prevailed in 1820 and 1836. I must also think it unsafe to expect that Congress will establish any other. It has never yet given its assent to a longer term than four years. That body neither knows nor has precedent for any other term. The most partisan journals and the most scheming politicians are now demanding a four years' term. And here we may recall the fact, that, when, in 1836, the four years' term was first made applicable to postmasters, the Senate took to itself the confirmation of about four hundred of them, being those whose compensation was one thousand dollars a year and over,—which class now, under the test of that law, is increased to eighteen hundred and forty. This requires, from mere expiration of terms, the confirmation by the Senate of four hundred and sixty postmasters each year; and, when the cases of resignations and removals are added, it makes it necessary for that body to act upon nominations of postmasters at the rate of two every day of the session! Is it any wonder that great questions of legislation are neglected, that Senators are beset by office-seekers, or that they are becoming more and more the partisan chieftains of their States? Have the facts attending these confirmations been such as to make it desirable that several thousand more, of the forty thousand additional postmasters to which the four years' term may be extended, should be brought into that body for confirmation? Would such confirmation secure superior business men for postmasters, relieve Senators from office-seekers, or tend to purify and elevate municipal politics? Is an angry debate in the Senate about State politics,—such as we have lately seen, over a village postmaster,—the best means of securing a good one? One thing such a change might do; it might, within a decade, when ten thousand postmasters would be subject to confirmation,—or twenty-five hundred a year, being equal to fifteen each day of the entire session of Congress, would be pending for confirmation on the executive session calendars, with fierce delegations for and against each in the ante-chambers,—

render it impossible for the Senate to attend to any other business. This would at least produce a crisis. Let a debate arise in Congress, and those reasons of 1820 and 1836 will be again vigorously urged. How many members, depending, as they do, on party majorities and patronage-mongers, will venture to confront such reasoning?

But let us look further. Take away such reasons, and upon what grounds can a short term be defended? If ministerial officials should not go out with an Administration, when and for what cause should they go out? It is quite true that, disregarding the quadrennial period, and the whole theory of rotation for giving everybody an office, a candid mind may yet favor a short term; but for what reasons and upon what grounds fix its length? Let us consider the main points.

1. The reasons have already appeared why a six years' term would be preferable to one of four years, as a term of ten or more years would be to one of six years. And competent persons would doubtless be more likely to take an official place and to serve for a moderate compensation under a tenure of six years, than under one of four, for much the same reasons that they would still more incline to the public service under a tenure having regard to merit, which would appeal both to their ambition and to their sense of safety. A four years' or a six years' term for a young man takes him from business experience at an important period, and forces the man of family to expense in adjusting himself to his position, while it offers to either only a dreary, admonishing uncertainty, little inviting to a person of prudence or capacity. When, after coming into the service at twenty or thirty years of age, a four years' training by the Government as an accountant, an appraiser, a mail distributor, as an officer at the Mint, the Assay Office, or the Treasury, has made the official skilful, well-informed, and valuable as a public servant, it is certainly desirable that he should remain at least two years longer; but would it not be yet more desirable that he should stay so long as he is the most useful man for the place? What good reason can be given for sending away a valuable official at twenty-six or thirty-six, on merely showing that he has served six years? Is it not plain that, if the

tenure and the usage should say to him: "So long as you do your duty promptly and well, and maintain a good character, your means of living will not be taken away, nor your place given to another," he would be stimulated to fidelity in a degree unknown to him who can hold his place only time enough to learn its duties and to look out for another? The Government will never be best served, nor gain the best to serve it, while its officials are selected or treated as needy birds-of-passage, in mercy supported to-day, but told to find a place elsewhere to-morrow.

2. It may be insisted that the service would not, of course, end with the six years, but only terminate in case the incumbent should be held unworthy of re-appointment. This theory plausibly presents a short term as a kind of substitute for removals. It contemplates that, at the end of the service of every one of the fourteen thousand executive officials whose period would expire within each year under a six years' term, there would be a special inquest of their official conduct, and a just judgment rendered. We need not dwell on the magnitude of such an undertaking which makes it chimerical. If the facts this theory assumes be true, that during the previous six years the official superiors have been ignorant of the merits of their subordinates, such neglect would prove them unworthy to decide as to re-appointments. If such merits have been known, no special inquiry will be needed, and the unworthy will have been or should have been removed. Whose duty would it be, in any event, to conduct that inquiry and decide upon re-appointments, except that of the identical superior officers whose yearly and daily duty it now is to keep themselves in that regard fully informed, and to make removals whenever good cause exists? Since that obligation cannot be increased, the change, if any, contemplated in official supervision under short terms would seem to be one that would excuse its performance until the end of the term. Insufficiency, insubordination, neglect of duty for party work, and conduct not absolutely infamous, or criminal, perhaps, are to be overlooked during the term, because at its end there is to be a grand inquest. In other words, the moral and legal obligations of officials in the higher places, and the experience and discipline es-

sential on the part of those in the lower places, are both alike to be reduced to short measure, as a part of the benefits of short terms. That this would please the office-seekers, patronage-mongers and partisans most clamorous for such terms, we need not doubt. On any other theory, or any just or defensible theory as to removals, it is plain that the unworthy would all be removed before the end of the six years and all those left at its expiration would deserve re-appointment, which would make the term unavailing for any useful purpose. If, therefore, the officials having a duty of removal are to be trusted, the six years' or other short term is needless; and, if they are not to be trusted to make removals, would they be improved for the duty of re-appointment by a statute which would suggest that until the end of terms they should wink at the delinquencies of their subordinates? The better remedy than any short term would be to enforce far more sternly, and, if need be, by the aid of stringent legislation, the duty, declared by Madison and implied in the Constitution, to remove for adequate cause, and not to remove without it; and by fit reform methods to take away the pressure, the threats and the corrupt persuasions which now make the proper discharge of that duty so rare and difficult. Under such a system, the unworthy would be warned off as well as weeded out from the public service.

But let us not forget that with fixed terms, either for six or ten years, it would be far more difficult to re-appoint valuable servants than it would have been to retain them longer if no statute had taught the office-seekers and spoilsmen the doctrine of rotation and removals without causes. It is unquestionably true, on the other hand, that an officer too cowardly to discharge his duty of removing during a term may more easily get excused by reason of a removal made by act of Congress; and, so far as that kind of relief which first encourages official neglect and then causes it to be forgotten is an advantage, it must certainly be set to the credit of short, fixed terms. With the duty of making removals for cause—which would embrace habitual inefficiency by reason of age or any other cause,—fitly discharged, we should hear little of a life tenure,—which is utterly indefensible,—or of a tenure during good behavior merely,—

which is inadmissible, because not compatible with such right and duty of removal. Good behavior and efficiency combined are the true basis of tenure for administrative officers. Who but the spoilsmen, the rotationists and the radical partisans,—who but those who refuse to allow the supreme objects to be pure, economical and vigorous administration,—can object to retaining ministerial officers so long as they are most useful for the public service?

3. There are doubtless some who think—and, within very narrow limits, perhaps not wholly without reason,—that short terms would impress upon the officials a new sense of responsibility in addition to that felt toward official superiors—a responsibility to the public and to public opinion. The fact that the managers of small local administrations, open to the view of everyone, in towns and villages, and that officers elected by the people feel a wholesome responsibility of that kind, is a natural source of delusion on the subject. If that sense of responsibility is reliable, it would be a good reason why the eighty thousand inferior Federal officers should be elected rather than appointed. The greater parts of our system would be indefensible. It is because that theory is illusory, that, under our system and under that of every civilized state, such officials are appointed and governed by superior officers. The popular judgment can never fairly decide how far bad administration is due to the superior officer or to the inferiors who must obey the instructions of those above them, and hence puts the responsibility and duty of removal upon the superior—the President, the Governor, and the Mayor, whom the people elect, or upon the heads of departments, whose terms are for that reason made short. Every attempt by the Legislature, through short terms, to substitute for the true responsibility to the Executive and for the duty of removal a new kind of responsibility, is therefore not only a legislative usurpation of executive functions, but is an effort both repugnant to our Constitution and demoralizing in its tendency.

In order that the popular judgment or the Senate should deal justly or wisely with a subordinate,—a postmaster, collector, district-attorney, and much more with an appraiser, inspector, or marshal,—it would need to know, not only the instructions given

and the liberty and facilities allowed him, but the accounts and the many facts which are among the secrets of the departments.

But, utterly illusory as hopes from a popular judgment on such matters must be at its best, short terms in themselves tend to debauch that judgment and to make it less salutary than it would become under a stable tenure, such as we have seen that President Arthur and all the late Presidents approve. Those terms cause a mere preponderating party majority or selfish personal influence to fill nearly all the subordinate places, and the power that gives a man an office keeps him there or dictates his successor with equal disregard of character and administrative capacity.

The shorter the term, the more difficult and unreliable the popular judgment. Make the term a year or a month, and will any candid man say that a popular judgment upon the official conduct of him who fills it could exist? In most cases, the public can tell whether the work of an office—but only rarely in a large office whether that of a single officer,—be well done; but its protest and high demand must be addressed to the head of the department or the President, where only its concentrated voice can be made potential,—if not at once, at least at the next election. Who can doubt that a community, dissatisfied for good cause with its postmaster, could far more easily induce a Postmaster-General or President, than a Senate, to remove him? For, in the case of the superior officer, under a proper system, he would stand alone, with all the facts at his command, with public opinion concentrated upon him, with sole responsibility for his duties; while the Senate, if not dominated by its demoralizing courtesy, acts secretly, without responsibility, by a party majority, and with neither time nor means for learning the facts. Almost the last example—that of the postmaster at Lynchburg, Virginia, in which the partisan refusal of the Senate was followed by a suspension of the delinquent officer by the President,—suggests the fit answer and illustrates the whole system of legislative usurpation of executive functions.

The worst administrations of later years—corruptions, partisan proscription, neglect of official duty in order to coerce elections, political assessments, the degradation of the public servants into

the henchmen of chieftains and Senators, the bartering of places for votes,—have not been originated or most practiced by the more subordinate officials to whom a fixed term has never been extended, but have grown up and become most intolerable around the great custom-houses and post-offices, at the head of which are officers holding for four years, confirmed by the Senate and beyond removal, except by the consent of that body—or, perhaps, I should say, of the one or two members of it most responsible for the wrong-doing of the officers complained of!

If the thousands of postmasters whose compensation is between five hundred and one thousand dollars a year were given a term of four or six years, and were added to the eighteen hundred and forty postmasters who receive one thousand dollars or more a year, so as to be affected by this new kind of popular responsibility, and made subject to confirmation by the Senate, I must think that not superior postmasters, but more active politicians, would be secured, and that new elements of vicious and feverish activity would be added to our municipal politics in every quarter of the Union. All the older States, at least, would have from three to four times as many officers, and with changes or reappointments of each recurring two or three times as often as now; concerning most of whom, at best, there would be the same vigorous working of party machinery and the same mischievous combination of selfish influences which now distract communities and vex Congressmen in connection with the quadrennial appointment of postmasters. Few things are clearer in our own politics than the fact that the vast majority of such confirmations are determined by mere official favor or partisan interests, and not upon any intelligent regard for the administrative capacity of the candidate. The case of Postmaster James of New York, a public official educated and elevated by his rare qualifications and the reform methods he enforced, is an exception so conspicuous as to arrest the attention of the whole country and to make him Postmaster-General,—the first example of administrative capacity ever commanding the bestowal of that office.

I must, therefore, regard it as a condition of good postal admin-

istration to repeal the four years' term for postmasters, and as most desirable not any longer to draw them into the Senate for confirmation. And, is it too much to expect that Senators will magnanimously surrender a patronage which obstructs the business of legislation in much the same degree that it aggravates partisan politics, draws themselves into unworthy contests, and debases the Senatorial office? At worst, it is some consolation to think that the time is not remote when mere physical inability to have a partisan or patronage-monger's contest in that body over each of the ten thousand postmasters who, a few years hence, will receive a compensation of a thousand dollars or more a year, will compel a reform in the public interest.

A true conception of the functions of a postmaster or a collector would require that the business of their offices should be conducted in a manner wholly independent of party politics, and would hold it not only an abuse of official authority, but a gross violation of the liberty of the citizen, to use the official influence of either to control votes or manage parties. A general recognition of these simple truths would, so far as these officers are involved, solve nearly every problem of practical reform. England, in the reign of Queen Anne, by statute made it penal for a postmaster "by word or writing, or in any manner whatsoever, to endeavor to persuade or dissuade any elector . . . as to giving his vote." Still upholding that law, it is now a part of her postal instructions that "every person employed under the Postmaster-General is prohibited from exerting any influence either for or against any candidate; . . . and canvassing within a post-office is prohibited" on this basis of law. Aided by competitive examinations in the great post-offices, and by a tenure of worth and efficiency governing promotions and removals, Great Britain has, at less expense than our own, secured a postal administration unsurpassed in the world and quite beyond anything to which our public opinion yet aspires,—at least, outside the city of New York. There, Mr. James, bringing to the work rare administrative ability, refusing to remove without cause, and adopting the competitive examinations which British experience

had matured,—examples which his successor faithfully follows,—secured results unequalled in this country, and, considering the inadequacy of the appropriations for a more complete service, unsurpassed anywhere. Yet this New York service is quite behind that of London, where, in some sections, there are eleven and in others twelve mail deliveries a day, while in New York there are in no part but nine daily deliveries. But New York has thousands of politicians who believe in rotation in office, who hold Civil Service Reform to be a theoretical, *doctrinaire* delusion, who really think that the city has the most complete mail service in the world, and who do not forgive Mr. James for trying to take the letter-carriers and post-office clerks out of party politics.

It is by the means here indicated, which would equally tend to raise our postal affairs above local politics in the villages and above State politics on the floor of the Senate, and not by mere short terms, or by adding postmasters to the confusing and demoralizing number of elective officials, that purer and more economical administration may be secured. Congressmen who really wish to be relieved of so much solicitation about post-offices, of which they complain, may vote to repeal the Act of 1836, and for a law forbidding any postmaster interfering with elections and any removal of a postmaster being made without cause, to be stated in writing. These are the first steps toward a real divorce of party politics and postal administration. But, if members desire more patronage, more venal, pot-house politics, and the worst postal administration of any civilized people, I must think they can secure them by extending a four years' term to every postmaster, thus making it necessary to agitate the towns, villages and cities by a partisan contest every four years over the appointment or re-appointment to each of the more than ten thousand postmasterships and the many thousand post-office clerkships which such law would make vacant, in addition to all those which would be the result of removals for cause or without cause,—altogether, a revolution far greater than that under President Jackson.

4. Another reason given for fixing short terms is that it is the best that can be done in the present state of public opinion, which

is said to demand them. This view is not warranted by the facts. We have seen that short terms were an important part of the "spoils system" upon its introduction, and that they were persistently urged by the defenders of that system, of which they have since been a bulwark. They have, on the other hand, been opposed by all the great statesmen and by all the Presidents who have favored a non-partisan civil service. We have seen how, in New York and Pennsylvania,—and much the same was true in other States,—the partisanship which forced them upon the Federal service as early as 1850 also caused short terms to be extended to Judges and other State officers. We have also seen that, a few years later, in the same period when the Civil Service Reform was first demanded, there was a reaction in the States, which has since steadily grown stronger, the effect of which has been to lengthen the terms, not only of State Judges, Governors and Senators, but of Mayors, Commissioners, and other municipal officers, besides substituting biennial for annual sessions of Legislatures in most of the States. To go back again, under the pretence of reform, in the face of such a tendency, to the theory of the laws of 1820 and 1836, is as unnecessary as I must think it would be disastrous to the country and to the party and administration which should be responsible for it. That there are a few who, overlooking the fatal objection pointed out, honestly think that short terms may be made an agency of reform, has been admitted; but I must regard the great majority of those who favor them as advocates of the "spoils system" generally, or, at least, of a Jacksonian rotation as a matter of principle. With some exceptions, those most earnest for such terms have been most intense in their opposition to Civil Service Reform, and especially to competitive or other effective examinations which would exclude official favoritism and partisan proscription in appointments.

Their policy is very adroit. They see that some action under the name of reform must now be conceded to public opinion. They know that the dominant party, by its platforms and its Presidents, stands pledged to a more stable tenure. They feel that something must be done that will be accepted as a part fulfilment of that

pledge. They are not willing to surrender their patronage or to allow any but members of their own party to enter even the most humble places. They therefore say: "Let us fix short terms, and, silently ignoring the matter of removals for cause, let us call this stability and reform, and persuade the people to accept it as such. This will carry us over the stress of public opinion."

It is a shrewd movement, and, if ignorant of the history of short terms, not a few worthy citizens might trust this seductive nostrum. The fact is that, outside the more selfish and partisan circles, and the few who have thoughtlessly accepted rotation as justice, which demand short terms, there is no public opinion demanding them and there are no abuses which they could mitigate. Where in the executive service is there too much trained experience? Where dotards drawing salaries they do not earn? Who will undertake to say that, for every person superannuated in the civil service, there are not ten incompetent from inexperience or by reason of that natural incapacity which only favor or outside pressure could force into or keep in office? Which gives the wiser suggestions, the valuable services of Mr. Hunter in behalf of prudence and sound diplomacy,—who has been at the State Department since 1829,—or the fact that we are now disgraced before the world and dangerously embroiled with South American republics by reason of the inexperience, and consequent rashness and blunders, of those who have been conducting our diplomatic affairs? Which does the growing and wise public opinion most favor,—a system which would give us well-qualified consuls, under a stable tenure, or that system which, through intrigue and partisan favoritism, has so largely filled our consular places with stale politicians and bankrupt office-seekers, equally ignorant of the commerce they are to protect, the laws they are to administer, and the language of the people they are to conciliate? What the growing public opinion demands is not rotation, or an everlasting procession of partisans and bankrupts through the offices, but that the most worthy shall be selected for office, and that they shall be kept so long as they are pure and efficient, and no longer. So far as there is now any real difficulty in making removals when they ought to be made,

it is due to that same pressure on the part of great politicians and members of Congress which crowds the service with their unworthy favorites and dependants. The threats and the fawnings that foist a brawny henchman, a bankrupt cousin, or a favorite widow, upon the national pay-roll, are repeated when the attempt is made to remove them. Let competitive examinations be placed at the gates of entrance to the public service, which would exclude the unworthy and bring in those who would have nothing but their superior merit to keep them there, and removals for cause would be easy. And, should any superior officer be found delinquent in that regard, he can be impeached, as Madison advised; for, when members of Congress and other great officials and chieftains shall no longer have the departments crowded with their favorites and relatives, and can put no more in at their pleasure, they will no longer, as now, have an interest to prevent the arraignment of extravagance and imbecility in the executive service. British experience has confirmed the plain suggestions of reason on those points.

5. It has been suggested that, since competitive examinations are very offensive to the partisans and spoilsmen, whose patronage they would suppress, such examinations might be facilitated, or the need of them in a measure superseded, by short terms. I must regard the suggestion as being not even plausible; for such terms, for all the reasons stated, would surely strengthen every false theory and aggravate every abuse against which such examinations and every other tending to test merit are directed. The shorter the term, the greater the necessity for ability and business experience upon entering the public service; and the greater, also, the need of thorough competive examinations as the best means of selecting the most competent of the applicants. Even those incompetent at the start may, after some years' training at the public expense, be made serviceable for the public work. But, if the term is too short for such education, large capacity must be required at the start. Make the term only a month, and the public work would be arrested, unless the standard for admission should be raised and a stern enforcement of competition should be made to

throw out more than the mere dunces While, therefore, competitive examinations could be made to mitigate some of the evils of short terms, such terms would make competitive examinations indispensable.

It is important to clearly perceive that the time when a person should leave the public service does not depend upon how he got into it, but upon his usefulness there. Whether he got in by favor, pressure, or through a competitive examination, the question of his proper term or tenure is the same. Such examinations, and, indeed, nearly all the practical methods of Civil Service Reform,—except the demand for the repeal of the short-term acts, and for laws against political assessments,—relate to the means of *getting into the service* and to the abuses therewith connected. It is only the specious, unwarranted allegations of the spoilsmen, which declare a dependence of those methods upon a life tenure or long term of office. There is no such dependence. A great portion of the removals without cause are, however, made in order to create vacancies into which dependants or henchmen may be pushed. And, since, under competive examinations, the place would be filled by whoever could prove himself the better man, this pushing would avail little or nothing; and for that reason unwarranted removals would hardly take place, as we have seen to be the case at the New York post-offiee. While, therefore, these methods would tend to make a tenure more stable by making powerless the corrupt forces which cause proscriptive removals, I repeat, that the need of applying these methods would increase with every reduction of the term of office and every enfeeblement of tenure. It is an utter misconception of the subject to claim that a permanent tenure of office is an incident of competitive examination, or any further a consequence of them than this,—that, securing the better man, they make it more easy and natural to keep such men as long as the public needs or desires them.

But, suppose short-term theories should now prevail; what would be the result in the near future? How long can such theories be in force? Population doubles in about thirty years, and officers increase yet more rapidly. Men who have now

reached manhood may live to see more than two hundred millions of people in the Union. Almost within the last decade, the Life-Saving and Signal Service, the National Board of Health, the Agricultural Bureau and the Bureau of Education have been added to the public service, and these last two will doubtless soon be departments. The ten thousand and seven hundred postmasters of 1835 had increased to twenty thousand and five hundred in 1855, and to over forty-two thousand in 1881. With two hundred millions of people, we are almost sure to have nearly two hundred thousand postmasters and little short of half a million subordinates in the executive service There will still be but one President, but one Senate, but one Secretary of the Treasury, but one Postmaster-General, unless we create others to fight off the office-seekers and work the machinery of office-filling. Shall we deliberately create an official term which will require the refilling of nearly a hundred thousand of these places every year, in addition to all those that may be made vacant by removals and resignations? Washington could not contain the office-seekers and their backers who would swarm there. Could republican institutions stand such a strain?

Such are the principal reasons urged for short terms and some of the reasons which forbid them. There is another objection to them which must not be overlooked. They would greatly embarrass, if not defeat, any adequate system for promotion based on merit or experience. Four successive Presidents, all the best administrators in this country,—and notably Postmaster-General James and Mr. Schurz,—and every-well governed country abroad, have insisted on promotions for merit, tested by experience, as most essential to good administration. When, in his late message, President Arthur declared that "positions of responsibility should be, so far as practicable, filled by the promotion of worthy and efficient officers," he affirmed a principle to which short terms are utterally repugnant. These terms are an arbitrary interference by the legislative with the executive department, by reason of which, at a fixed time, and irrespective alike of the needs of the public service, of the merits of those who fill it, and of the wishes of those

responsible for good administration, the good and the bad cease to officiate. Every officer is sent away—in substance, removed,—once in four years, without cause. Promotion for merit, on the other hand, is based on the theory that an officer is more valuable for his experience, and should be retained for that reason; his responsible superior should be the judge of the time during which he should be retained, of the duties he can best perform, and of the fit reasons for his removal. Now, it is quite too preposterous for argument to pretend that such experience can be secured in the complicated affairs of government if there is to be a quadrennial rotation. The very theory upon which such rotation is founded is but a declaration that the paramount aim of the Government is not the most competent officers,—is not to stimulate effort, and retain the skilled ability it has educated,—but the greatest number of office-seekers given salaries and the greatest number of the henchmen and dependants of patronage-mongers furnished with places. For the official whom a term of four years' training at public expense has fitted for a higher place, and the head of a department would put there, the rotation system gives another politician or favorite to be trained and set away every four years.

But it may be asked whether some evils may not attend the observance of the tenure of the Constitution for "inferior officers," —a tenure during the existence of good behavior and efficiency,— and whether some provision may not be wisely made for those who might leave the service poor and superannuated. Under the Presidents before Jackson, when that tenure prevailed, and, therefore, before there were short terms, no evils appear to have arisen which needed relief. We cannot speak positively of the future. It may be that the aptitude and inclination of our people for change of calling, and the facilities for saving and for securing new employment in this country, will for many years prevent that need of legislation on such subjects which, in the old and densely populated countries, we know has existed. If such shall not be the case, there will be ample time for action years hence. No great evils calling for that kind of legislation now exist. It is not a good reason for declining to remedy existing

abuses connected with getting office, keeping unworthy persons in office, and putting of worthy persons out office, to declare that, perchance, a generation hence, after existing abuses shall be suppressed, there may be in the public service some superannuated officers for whom a grateful people may be willing to make some provision. We do not refuse to cure the sick or arrest contagion, because the future may have an excess of population. Such excuses are fit only for demagogues who seek to defeat reform by appealing to popular prejudice and ignorance.

Our business men have not, as a rule,—though with increasing exceptions said to be advantageous to employés,—yet made provisions for those worn out by faithful labor in their employment, and whether the Federal Government can wisely be more paternal and humane is a question properly left to the future. Much may be said on both sides of it. Our pensions in principle, and our retiring allowance in the army and navy, and for Federal Judges, directly affirm the justice and utility of making provision for faithful officers worn out in the public service. After putting out the flames and purifying the air of the national household, we can take ample time for improving its attractions. The older Governments generally, and Great Britain with marked success, have made such provisions. The British statutes, which give a retiring allowance only after ten years' faithful service, are by no means based on a theory of mere benevolence, but are justified as enabling the same capacity to be secured for a smaller salary, and as contributing to efficiency and fidelity in office,—in fact, as being, on the mere score of economy and selfishness, a manifest gain to the public treasury. The salary and the allowance are thought to be hardly more than the salary would need to be, on the average or in the aggregate, but for the allowance upon retirement. We see the effect of these allowances in the smaller salaries of those in the British service, as compared with the salaries paid in our service. This experience, extending over three-fourths of a century, is well worthy of our study, whether we ever have occasion to make similar allowances or not; for it will show us a royal and aristocratic Government regarding the self-respect and comfort of those who, in humble

places, serve it faithfully, with a care, dignity and regard for economy which are not quite universal in this great republic.

If it be suggested that such allowances befit the paternal care of a monarchy, but not the stern justice of a republic, let it be remembered that every subordinate in the British service who can receive them is by statute compelled to gain his place through superior merit disclosed in a stern, open, competitive examination, where neither blood nor influence avail anything; while it is only in this republic that a great officer or a politician can privately force his blockhead son, his discharged housekeeper, his servile electioneering agent, or his bankrupt dependant, upon the public service.

If there shall be need, there are various ways of dealing with the subject. (1.) We may fix an age beyond which "inferior officers" shall not remain in the service, thus sternly excluding dotage. (2.) We may fix an age after which the salary shall rapidly decrease, which would prevent full payment for impaired capacity, as well as cause seasonable resignations. (3.) We may pay a small fixed sum on retirement, after a prescribed period of meritorious service, and before reaching a fixed age. (4.) We may, on retirement any time after ten years of such service, continue to pay a certain proportion of the salary receivable at the date of retirement, which is the British system. (5.) We may, after the official has reached a certain age or period of service, retain a percentage of his salary, to be paid on retirement, which will cost the Government nothing and yet be a provision against want. (6.) We may refuse to make any provision whatever on the subject, dealing with the public servants according to the severest theories of hostile interests and business relations. (7.) Or, if we shall find the Executive or heads of departments refusing to remove in proper cases, after the repeal of the Tenure of Office Acts and relief from party and Congressional pressure shall have restored them a real liberty to do so, or if any bad effects shall attend a trial of tenure based on character, capacity and efficiency, it will be easy, if desirable, to establish a term of years, the length of which should be determined in the light of such experience, and not upon the "spoils system" theories which now prevail. By that time, if

favoritism and patronage shall have been suppressed, and competitive examinations shall have been some years enforced, there may be neither partisan interest nor prejudice enough left to embolden demagogues to seek popularity by denouncing as an "official class" those who, from whatever grade of life, have worked their way solely by superior merit, and who can hold their places only so long as there shall be no cause for removal. How can that be a class, into which no one can be born, through which nothing can be taken or transmitted, and in which no one can remain longer than he is freely retained because he is the best servant of the people?

It would be premature to discuss these points. We need, and before the time for action shall arrive we may expect, a more interested public opinion on the subject. Of what use to ask a legislator who believes in rotation, who holds a tenure of merit to be "un-American," who promised ten clerkships to carry his last election, and demands a consulate and a post-office to carry his next election, to consider the subject on the basis of the public interest? When we better comprehend that the real strength of parties is adherence to sound principles and the enforcement of good administration,—when we are prepared to make capacity and character, and not influence and favoritism, the tests for admission to the public service,—when we have the courage to suppress political assessment and the official coercion of elections,—when we become convinced that promising places for votes is the worst form of bribery, and that the "spoils system" is as demoralizing to a party as it is disastrous and disgraceful to the country,—then we shall see that to refuse to retain a public servant, because he is faithful and efficient, is to refuse to protect the public welfare, and shall be prepared to deal with our retiring public servants upon the grounds of justice and sound principles; but not before. Then we shall be able to give due consideration to what contributes to the honor, efficiency and economy of the public service,—to what makes it attractive to a prudent man with a family dependent upon his salary,—to what will give it a high place in public estimation,—to what will invite to it young men of promise, by assuring them that merit will be the basis of stability and promotion.

We must first place competitive examinations—real tests of merit,—at the gates of the departments and the great executive offices, as provided for by the Pendleton Bill, which will suppress patronage and bring in more competent officials, who will not be the vassals of legislators or politicians. The most unworthy in the public service will disappear in a few years, when then the great patrons who now keep them there have ceased to be potential at the executive offices. Then will be the fit time for dealing wisely with tenures and terms. Until then, we had better confine ourselves to the evils which we have, the removal of which will greatly diminish the chances and the magnitude of those we fear.

# *Civil-Service Reform.*

**In regard to the effects of the present "spoils" system in our Civil Service, JAMES A. GARFIELD wrote in 1877:**

"The present system invades the independence of the Executive and makes him less responsible for the character of his appointments; it impairs the efficiency of the legislator by diverting him from his proper sphere of duty and involving him in the intrigues of aspirants for office; it degrades the Civil Service itself by destroying the personal independence of those who are appointed; it repels from the service those high and manly qualities which are so necessary to a pure and efficient administration; and, finally, it debauches the public mind by holding up public office as the reward of mere party zeal."

**How can these evils be remedied?** By admitting applicants to subordinate offices in our Civil Service on competitive examinations which shall best test those qualities required in the office to be filled. This system will give to every person, whether he be Democrat or Republican, an equal right to enter the public service; it will give to our government the wisest and best choice of servants; it will break the power of patronage and cause subordinate offices to be given for approved merit and not for ability in controlling votes.

**What will be the effects of this reform?** It will apply only to the subordinate and clerical officers of the government—those whose duties have no necessary connection with the policy of the Administration. In 1879 there were 78,180 such subordinate officers on the rolls of the national government, whose combined salaries amounted to $38,772,943. Most of these officers are clerks, and under the reform would be appointed by competitive examination. Under the "spoils" system these 78,180 offices can be used by the party in power to perpetuate its hold upon the government, and can be held out by all political parties as bribes to voters. But this $38,772,943 represents only a portion of the "spoils" fund of the *national government;* there is the fund of our *States* and *cities* to be added. In New York City there are 7,802 persons employed, not counting teachers and laborers, whose salaries amount to $8,000,000 annually. Consider the immense "spoils" fund in our national, state, and city governments, which is now used to bribe voters, and which will be swept away by the system of competitive examinations. Is it not true that the "spoils" system causes principles to be forgotten and political parties to be merely machines for obtaining and holding office?

**Is the reform practicable?** In England it has succeeded and has given the Civil Service more manly, industrious, and efficient servants. The Bank of England, the London and Westminster Bank, the Spottiswoode printing-house of London, and other great corporations, have tried the examination system with signal advantage. But an example of the success of the reform has been given in our own country. At present seventy-six per cent. of the appointments in the New York Custom-House are made by competitive examination, and if a man proves himself the ablest applicant, he may obtain a position, be he Democrat or Republican.

The Civil-Service Reform Association is endeavoring to bring about the above reform in our national, State, and city governments, and invites all patriotic citizens to join its numbers and assist in purifying our politics and improving our Civil Service,

**Annual dues for Membership, $2.**

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